

**OFFICIAL REPORT OF PROCEEDINGS**  
**BEFORE THE**  
**NATIONAL LABOR RELATIONS BOARD**

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In the Matter of: Case No.: 03-CA-295810

STARBUCKS CORPORATION,

Respondent,

And

WORKERS UNITED,

Charging Party.

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Place: Buffalo, New York  
Dates: April 24, 2023  
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STARBUCKS CORPORATION :

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Charging Party. :

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The above-entitled matter came on for hearing pursuant to notice, before ADMINISTRATIVE LAW JUDGE ROBERT RINGLER, at the National Labor Relations Board, Region 3, 130 S Elmwood Avenue Suite 630 Buffalo, New York 14202-2465 on Monday, April 24th, 2023, at 9:00 a.m.

## A P P E A R A N C E S

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1	I N D E X					
2	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
3	Jason Ekberg	1230	1237	---	---	---
4	Allegra Anastasi	1247	1263	1285	---	1252
5	Connor Mauche	1291	1301	---	---	---
6	Cole Graziano	1311	1348	1361	---	---
7	Jovan Draves	1364	1375	---	---	---
8	Marcus Hopkins	1390	1404	---	---	---
9	Jovan Draves	1410	---	---	---	---
10	(recalled)					
11						

1			
2		E X H I B I T S	
3	EXHIBITS	IDENTIFIED	RECEIVED
4	General Counsel's		
5	GC-30	1335	1337
6	Gc-78	1251	---
7	GC-79	1254	1255
8	GC-80	1289	1290
9	GC-81	1089	---
10	GC-82	1295	1295
11	GC-83	1298	1299
12	GC-84	1296	1297
13	GC-85 to 94	1307	1308
14	GC-95	1319	1326
15	GC-96	1362	---
16	GC-97	1367	1327
17	GC-98	1393	1394
18	GC-99	1409	1413
19	Respondent's		
20	RX-27	1264	1265
21	RX-28	1266	1267
22	RX-29	1267	1268
23	RX-30	1270	1274
24	RX-31	1274	1275
25	RX-32	1327	1327

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## E X H I B I T S (CONTINUED)

EXHIBITS	IDENTIFIED	RECEIVED
Respondent 's		
RX-33	1376	1377
RX-34	1377	1377
RX-35	1380	1380

## P R O C E E D I N G S

(Time Noted: 8:59 a.m.)

JUDGE RINGLER: Okay. Monday, April 24th. We're back for what is day six of our Starbucks Buffalo case. Okay. Counsel, what do you got for me?

MR. GOODE: The first thing, Judge, to circle back on the petition to revoke that were the subject of I think an email this weekend. Just so you're aware, we are, the General Counsel will be filing petition to revoke, petitions to revoke the number of subpoenas that have issued, as well. So we just wanted to alert you that those were coming.

JUDGE RINGLER: Okay. Okay.

MR. GOODE: I think our --

JUDGE RINGLER: When are you going to do that?

MR. GOODE: I think the first one is due today. And then I think there were subpoenas served throughout the week. So they'll be coming in as the deadlines approach, Judge. But again, just to alert you that that's coming.

JUDGE RINGLER: Okay. Fair enough. Thanks for the heads up.

MR. GOODE: So the next thing that I wanted to discuss relates -- so we -- the subpoenas, you know, we were able to, the best way that I can characterize it, Judge, is get eyes on the document. We're still in the process of trying to understand what a number of the documents mean, what they are,

1 what they're responsive to. And I think that's our biggest  
2 issue. And we respect your rulings this morning on the index,  
3 Judge.

4 But you know, we do still need time to, you know,  
5 we've got time records, time punch data that is going to take a  
6 lot of time to sift through, Judge. So the one thing on that  
7 note, from what I can tell, respondent provided time punch  
8 records for the best that I can tell maybe eight stores, nine  
9 stores, somewhere in that range.

10 But the records date back, from what I saw, to July 1  
11 of 2021. Our subpoena requested records dating back to August  
12 of 2020, which is a full one year prior to the union campaign  
13 which we believe we need to see --

14 JUDGE RINGLER: Sure.

15 MR. GOODE: -- what the baseline is. So unless I  
16 missed it, I did not see time punch data for August of 2020  
17 through July 1 of 2021. So we're going to ask that those  
18 documents be required to be produced to us.

19 JUDGE RINGLER: Okay. And it's possible they might  
20 have been and maybe you're missing them, or maybe you're not,  
21 so.

22 MR. GOODE: I mean, we got time punch data in native  
23 format which is essentially, you know, looks like a big Excel  
24 spreadsheet. So as best as I can tell --

25 JUDGE RINGLER: Okay.



1 MR. GOODE: I mean, if respondent tells me I'm wrong,  
2 point me to those documents. I'm happy to go look at them.  
3 But I didn't see that.

4 JUDGE RINGLER: All right. So that's a question that  
5 you folks have. Obviously, you can't answer it off the cuff.  
6 But take a look at what you've provided to them, and then when  
7 we come back on the record this afternoon or whatever, you can  
8 let us know.

9 MR. BALSAM: Judge, yeah. And to the extent that the  
10 counsel for the General Counsel has any questions about the  
11 production or any issues like they're bringing to our  
12 attention, I would request that they do so in advance of us  
13 starting in the morning. That way so it would give us an  
14 opportunity to address it.

15 JUDGE RINGLER: It would make more sense, honestly.

16 MR. BALSAM: Just like they did last night with  
17 respect to three documents of the entire production. They had  
18 questions about it. We responded last night. And so  
19 similarly, I would request the same --

20 JUDGE RINGLER: Resolved, yeah.

21 MR. BALSAM: Yes.

22 MR. GOODE: Again, I'm doing this all in real-time,  
23 Judge. There's a --

24 JUDGE RINGLER: No, I understand. I understand.

25 MR. GOODE: -- lot of documents we have to sift

1 through. And there's a lot of documents that I know that they  
2 exist, but I'll be --

3 JUDGE RINGLER: But candidly, does it not make more  
4 sense before we clutter the record with this that off the  
5 record you simply ask them hey, I didn't see anything for X and  
6 Y and Z, did we get it. And then if the answer is no, then you  
7 could bring it up, Judge, it doesn't make any sense that we  
8 don't have anything from August of 2020.

9 But like right now, it sounds like to me that either  
10 they're going to answer back you have it, or they're going to  
11 be oh, we have to provide this to you, you know, something is  
12 not right here. So I think it's one of those two. I can't  
13 imagine it's an I'm not going to provide it kind of answer.  
14 So --

15 MR. GOODE: Okay.

16 JUDGE RINGLER: So maybe for those, do you want to  
17 just group those questions together, think about them, and then  
18 during a break which, you know, we take plenty, you we could  
19 have you talk to them. And then if it's a no, come back to me  
20 for sure.

21 MR. GOODE: And the other point of this, Judge, the  
22 other part of this I guess is we have all of our remaining  
23 witnesses who we've been able to get in touch with lined up for  
24 today.

25 JUDGE RINGLER: Okay. Perfect.

1 MR. GOODE: I think there is a decent chance our last  
2 witness will go on by, I don't know, one to two o'clock,  
3 somewhere in there.

4 JUDGE RINGLER: Okay. Okay.

5 MR. GOODE: We have one witness who has told us that  
6 that person -- because of work schedules, this person doesn't  
7 work for Starbucks any longer, basically told us they can't be  
8 here before tomorrow. So this is all kind of --

9 JUDGE RINGLER: That's fine.

10 MR. GOODE: Well, I think it's -- I'm being told it  
11 could be, like, tomorrow afternoon. So --

12 JUDGE RINGLER: Still fine.

13 MR. GOODE: So I just wanted to alert that to you --

14 JUDGE RINGLER: Okay.

15 MR. GOODE: -- Judge. And the other, the last kind  
16 of piece, and I know I'm kind of circling here, is we're going  
17 to ask that Your Honor permit us to, because of we're still  
18 trying to figure out what we don't have if we don't have  
19 anything. And we're going to ask that Your Honor allow us to  
20 use the three-week break that we have coming up to finalize, I  
21 mean, the time punch data alone is going to --

22 JUDGE RINGLER: Okay.

23 MR. GOODE: -- take a long time. And Your Honor  
24 asked us to essentially put together a demonstrative exhibit.

25 JUDGE RINGLER: Yeah. An Excel spreadsheet --

1 MR. GOODE: And so --

2 JUDGE RINGLER: -- or something.

3 MR. GOODE: -- we're going to ask that we not be  
4 permitted -- or we be permitted to rest when --

5 JUDGE RINGLER: Subject to your --

6 MR. GOODE: -- we come back.

7 JUDGE RINGLER: Yeah.

8 MR. GOODE: When we come back --

9 JUDGE RINGLER: I'll likely -- I'll think about it,  
10 but the likelihood is I'll permit you to rest subject to your  
11 review of these documents during that period of time.

12 MR. GOODE: Okay. Okay.

13 MR. BALSAM: Judge, if I may?

14 JUDGE RINGLER: Sure.

15 MR. BALSAM: Would it make more sense to allow them  
16 to recall a witness to the extent that there's a document that  
17 they have not received, or they believe they have not received  
18 other than not resting?

19 JUDGE RINGLER: I mean, all roads, candidly, lead to  
20 Rome. So I'm fine with that, as well, if that's what you folks  
21 want. But either way, you got a lot of documents. It sounds  
22 like you did your best to look at them over the weekend. It  
23 sounds like you still have questions about things. Certainly,  
24 you could take that three weeks to line everything up, for  
25 sure.

1 MR. GOODE: And, Judge, when you say we would rest  
2 subject to our review of the documents, would that --

3 JUDGE RINGLER: I'll probably even let you just rest  
4 completely on the Monday that we return.

5 MR. GOODE: Our only concern would be in case our  
6 review of the documents leads us to need to call a witness --

7 JUDGE RINGLER: Yeah. Yeah, that's very possible. I  
8 suppose that could be the case.

9 MR. GOODE: Okay. Okay.

10 JUDGE RINGLER: But in the interim, during that  
11 three-week period, if that is the case, email everyone and  
12 just --

13 MR. GOODE: Of course.

14 JUDGE RINGLER: -- alert us that that's --

15 MR. GOODE: As soon as possible.

16 JUDGE RINGLER: -- the situation. Yes.

17 MR. BALSAM: Judge, my fear is that the counsel for  
18 the General Counsel who has pushed this case forward, you know,  
19 from the beginning even though we asked for a continuance 'til  
20 May 8th, is now basically saying to you that we should have the  
21 ability to continue this case for weeks on end until such time  
22 as we have the time to reconsider the documents, recall  
23 witnesses, and bring new witnesses in.

24 JUDGE RINGLER: Yeah. I don't --

25 MR. BALSAM: That prejudices us.

1 JUDGE RINGLER: Yeah. I don't construe it, I do not  
2 construe it that way at all. I construe it as he's saying to  
3 me that you know, we need this three weeks to look at these  
4 documents. And it sounds like, what was it, four and a half  
5 million pages, something like that?

6 MR. GOODE: On the original database.

7 JUDGE RINGLER: Yeah, something --

8 MR. BALSAM: Four and a half million pages of  
9 documents --

10 JUDGE RINGLER: -- like that.

11 MR. BALSAM: -- were not provided, Judge.

12 JUDGE RINGLER: Okay. Okay. All right. Fair  
13 enough.

14 MR. GOODE: To be clear --

15 JUDGE RINGLER: Good. Good. Well, whatever it is.  
16 Whatever. Documents, you know, were provided. He's saying he  
17 needs that period of time to look them over. Now if it's a  
18 business record, and you folks could, you know, agree and not  
19 object to it, he could just offer those documents when we get  
20 back together.

21 MR. GOODE: That would be my intention, Judge.

22 JUDGE RINGLER: If it's a business record where  
23 something is ambiguous in the record, that would be another  
24 scenario where he might say hey, I need to call a witness to  
25 clarify this, to understand this. And so I'm looking at it as

1 those kinds of things. The type of things that were already  
2 litigated, it would not be my mindset that I would be like  
3 okay, you know, call another employee witness or those kinds of  
4 things. So we're clear about that part of it.

5 All right. So are you clear about that part of it,  
6 as well?

7 MR. BALSAM: I am. You know, I still have an  
8 objection to it. But you've made a decision --

9 JUDGE RINGLER: Yes.

10 MR. BALSAM: -- so I'm not going to --

11 JUDGE RINGLER: I think that in a case that is so  
12 document intensive, I think that that makes some sense. And  
13 that's why I initially said rest subject to review of the  
14 documents because it kind of limits it to that kind of thing.  
15 That was my thought process, which I'll reiterate that's what  
16 we'll do.

17 MR. BALSAM: To clarify, though, your ruling here. I  
18 just want to make sure that counsel for the General Counsel is  
19 not able to call a witness that they rightly could have called  
20 during this timeframe just to testify about something unrelated  
21 to the documents that are --

22 JUDGE RINGLER: See, I don't want to prospectively  
23 say absolutely not, and then the .1 percent chance happens  
24 where something lends itself to somebody's in a document that  
25 -- whatever kind of thing. I don't want to, you know, take

1 that strong a stance on it.

2 But my thought process is, as a general rule, we're  
3 going to come back. And if there's a whole bunch of documents  
4 that you've reviewed you now want to offer, we can deal with  
5 that way. That's part one.

6 Or part two would be I need to ask this witness some  
7 questions about this business record because I have no clue  
8 what this means, I need to define these terms. And those are  
9 the broad headings that I think we're dealing with. I'm not of  
10 the mindset that, you know, oh we're going to call these extra,  
11 you know, five or six employee witnesses that have nothing to  
12 do with the documents. So, you know --

13 MR. BALSAM: Is there a way to provide a date certain  
14 as opposed to May 15th because the challenge that we have on  
15 our side is we have witnesses flying in from all over the  
16 country. And so as a result, we have very strict timelines as  
17 to when we plan to introduce them into -- have them sit.

18 And so to the extent that counsel for the General  
19 Counsel intends to use the --

20 JUDGE RINGLER: Yeah. And we could --

21 MR. BALSAM: -- Monday and Tuesday --

22 JUDGE RINGLER: -- call it down and pretend that we  
23 were getting together the week before that. That probably  
24 wouldn't have been so terrible. So do you want to commit to  
25 us, or please commit to us that you'll let us know what your



1 intentions are by -- before that. Hold on a moment there. So  
2 we're getting together on the 15th.

3 So let us know on May the 8th, by close of business,  
4 A, whether it's limited to documents. B, I've had this  
5 conversation with respondent counsel about the documents, they  
6 don't object to these things coming in. And C, I intend to  
7 call a representative from the company to ask them about the  
8 documents and identify who that is.

9 If that's the case, I'll know, right, because I've  
10 got to sign the subpoena if they don't want to produce that  
11 person. But that should cover it all pretty well, I think. I  
12 think in the other Starbucks case that I had, not that that's  
13 precedent for this, we used that hiatus between pieces of the  
14 case for the, you know, Government to review documents. That's  
15 fine. That's normal in these cases that are so big. So I'm  
16 okay with that.

17 Okay. Not a problem at all. So, all right. So what  
18 else we got? Anything else?

19 MR. GOODE: I think that's it for now.

20 MR. BALSAM: Judge?

21 JUDGE RINGLER: Yes, sir.

22 MR. BALSAM: Before the counsel for the General  
23 Counsel starts, there was three documents in question with  
24 respect to our production, one of which we realize, based on  
25 the counsel for the General Counsel's pointing out the question

1 about it that it was partially privileged. I asked that we  
2 call back that document and allow us to properly redact and  
3 then reproduce it. I just want to make sure -- I didn't hear  
4 back, so I wanted to make sure that on the record that you  
5 order them to do that, to the extent that they're not  
6 challenging the privilege issue.

7 MR. GOODE: That would very much be a challenge.  
8 Yes, we will challenge that's a privilege issue.

9 JUDGE RINGLER: So you've reviewed it and you don't  
10 feel it's privileged at this point is what you're saying?

11 MR. GOODE: If respondent wants to explain why they  
12 believe it's privileged, I'm happy to listen. But from what I  
13 can tell, it's conversations between a labor relations  
14 individual and an HR person. I don't see how it's privileged.

15 JUDGE RINGLER: Okay. Maybe what you folks can do is  
16 have a further off the record discussion about this. And if  
17 necessary, once again, I'm not comfortable, you know, ruling on  
18 this off the cuff. I haven't seen the documents.

19 I'm not even sure what we're even talking about in  
20 terms of, you know, how expansive this is or what's been said,  
21 who's saying it and all that good stuff. You know, it's  
22 probably a motion type of thing that I would suggest to you, if  
23 it comes to that.

24 And you're not even sure that this is a document you  
25 intend to offer anyway.

1 MR. BALSAM: I suspect it will be, Judge.

2 JUDGE RINGLER: You suspect it will be. Okay. All  
3 right. So that's something that I'll leave to you folks to  
4 deal with more formally than just raising it to me being we've  
5 got, you know, that two and a half, three-week pocket to deal  
6 with that. Okay.

7 My housekeeping which I should take care of is I'm  
8 going to admit at this time ALJ Exhibits 2 and 3. Those are my  
9 rulings on the discovery issue and the motion for  
10 reconsideration.

11 (Exhibits ALJ-2 and ALJ-3 admitted into evidence)

12 JUDGE RINGLER: I will email a copy of each document  
13 to the court reporting services. And I previously emailed  
14 copies to all the parties this morning. Everyone got those?

15 MR. GOODE: Yes, Judge.

16 JUDGE RINGLER: You folks have those in your --  
17 digesting them and whatever. I get it. Okay. All right. So,  
18 good. So those are admitted. And what else we got before we  
19 get our next witness in?

20 MR. BALSAM: I think we're good.

21 JUDGE RINGLER: Okay. So just so I make sure I  
22 understand, so today all day we've got witnesses.

23 MR. GOODE: We've got a witness here now. I think we  
24 have a witness showing up, might have the second witness  
25 already here. We have a third witness showing up for ten,

1 another witness showing up at 10:30. I'm anticipating our  
2 witnesses, our first three witnesses this morning be fairly  
3 short.

4 JUDGE RINGLER: Okay. Okay.

5 MR. GOODE: I think we will have a witness who my  
6 assumption is maybe we'll get the direct in then before lunch,  
7 possibly return for cross.

8 JUDGE RINGLER: Okay.

9 MR. GOODE: Another witness lined up after that. And  
10 then from there, we've got our other witness who had scheduling  
11 challenge.

12 JUDGE RINGLER: Got you.

13 MR. GOODE: And that, I'll admit, Judge, that's  
14 partially on me. I had, forecasting our schedule, I had  
15 indicated that that individual, I thought they would testify  
16 somewhere around Tuesday afternoon. We had sped up a little  
17 bit more.

18 JUDGE RINGLER: Now, are they only available in the  
19 afternoon?

20 MR. GOODE: That's what -- I mean, we're trying --

21 JUDGE RINGLER: So --

22 MR. GOODE: We're going to try to get that person in  
23 today.

24 JUDGE RINGLER: -- what I'm going to ask, just to be  
25 cognizant of everyone's schedules, is it not possible for you

1 to call that person this afternoon, and then call one of your  
2 other witnesses you were going to call today tomorrow morning  
3 and that way, you know, not everyone's hanging out --

4 MR. GOODE: That, from what we -- that person is,  
5 like, already at work --

6 JUDGE RINGLER: Okay.

7 MR. GOODE: -- and won't get off, from what we  
8 understand, 'til five.

9 JUDGE RINGLER: Got you. Got you.

10 MR. GOODE: I mean, I --

11 JUDGE RINGLER: Yeah. So might not be possible at  
12 this point.

13 MR. GOODE: Well, I mean --

14 JUDGE RINGLER: I understand.

15 MR. GOODE: -- I guess I could say if we wanted to go  
16 later, I could see if I could get her here after work. We're  
17 doing our best to try and --

18 JUDGE RINGLER: No, I got it. I got it.

19 MR. GOODE: A subpoena's been issued. We indicated  
20 what the subpoena is for and how it could be used. But we're  
21 trying to be cognizant of other people's work schedules.

22 JUDGE RINGLER: Okay. No, that's fine. So what time  
23 tomorrow are we talking in terms of --

24 MR. GOODE: I don't know. We're -- The Region, I  
25 think, is in contact with this person trying to understand. I

1 mean, we're doing everything --

2 JUDGE RINGLER: Yeah.

3 MR. GOODE: In a perfect world, we'll convince him to  
4 come here today. We're going to try our best. I told him  
5 initially right in the afternoon. My hope is that it wouldn't  
6 be later than right after lunch tomorrow.

7 JUDGE RINGLER: Yeah. And that's fine by me. You  
8 know, I don't have a problem with that. I was just trying to  
9 figure out if there was another possibility. So, okay. All  
10 right. Let's call the next witness and get going.

11 MR. GOODE: Jason Eckberg.

12 JUDGE RINGLER: All right. Hello. All right. While  
13 we're getting settled in, if you could spell your name for the  
14 record, first and last.

15 MR. EKBERG: Jason Ekberg, J-A-S-O-N, last name E-K-  
16 B-E-R-G.

17 JUDGE RINGLER: All right. Very good. And please  
18 raise your right hand.

19 Whereupon,

20 JASON EKBERG,  
21 was called as a witness having been duly sworn, was examined  
22 and testified as follows:

23 JUDGE RINGLER: All right. And, counsel, what  
24 complaint paragraphs do we have for this witness?

25 MR. GOODE: This is just Complaint Paragraph 6A,

1 Judge.

2 JUDGE RINGLER: Paragraph 6A. Perfect. So let me  
3 get to that. Okay. All right.

4 DIRECT EXAMINATION

5 BY MR. GOODE:

6 Q. Hi, Jason.

7 A. Hello.

8 Q. Jason, have you worked for Starbucks before?

9 A. Prior to today?

10 Q. Yes.

11 A. Or you mean have you ever --

12 Q. Yes. Yes.

13 A. -- for Starbucks?

14 Q. Yes.

15 A. I have worked for Starbucks, yes.

16 Q. Okay. When did you first begin working for Starbucks?

17 A. September 2017.

18 Q. Okay. And what store did you start working at?

19 A. I started working at the Transit Regal location.

20 Q. Okay. What city is that in?

21 A. Williamsville. Or Lancaster. I don't know how they're  
22 defining it.

23 Q. Okay. And what did you do for Starbucks?

24 A. I was a barista. And then I subsequently attained the  
25 role of shift supervisor, and then was in that role for some

1 time. And then I was asked to step down. I don't remember  
2 what the reason was behind that.

3 Q. Approximately when did you first go from barista to shift  
4 supervisor?

5 A. About a year later.

6 Q. A year after you began working?

7 A. Yeah.

8 Q. Okay. And then approximately when did you step down from  
9 shift supervisor until --

10 A. Approximately two years ago after that.

11 Q. ok

12 A. And then, of course, we got moved around due to the  
13 upcoming renovations.

14 MR. BALSAM: Objection. Move to strike. Non-  
15 responsive.

16 JUDGE RINGLER: I'll sustain. Just ask a cleaner  
17 question for that. I'm sure you get it.

18 BY MR. GOODE:

19 Q. So I'm going to direct your attention to the first part of  
20 2022. Okay? What position did you hold at Starbucks at that  
21 time?

22 A. At that time, it was barista.

23 Q. Okay. And were you working at Transit Regal when in 2022  
24 it closed for renovations?

25 A. Yes. At that time, I was working at the Transit Regal



1 location --

2 Q. Okay.

3 A. -- when they closed for renovation.

4 Q. And who was your store manager at that time?

5 A. Jody Keller (phonetic).

6 Q. And did Jody Keller -- leading up to the renovations, did  
7 Jody Keller give you any information about the upcoming  
8 renovations at Transit Regal?

9 A. We did receive some information regarding, like, what the  
10 store was going to look like, and then of course what we as the  
11 team would be doing when that renovation happened, seeing as  
12 our store would be closed. We would all be distributed to  
13 other stores in the area.

14 Q. Okay. Can you estimate approximately when these  
15 conversations with Jody were taking place?

16 A. I would say late 2021 to start, and then of course into  
17 2022 when we actually had the renovations. I think it was late  
18 March, early April is when those happened.

19 Q. Now specifically concerning where you would be working  
20 while the renovations were taking place, what information were  
21 you given by Jody?

22 A. We were asked to fill out a Google Docs form, or survey,  
23 whatever you want to call it, regarding the stores in closest  
24 proximity to us and which of those stores we would prefer to  
25 work at.

1 Q. Okay. Do you recall when you were first presented with  
2 this Google Doc form?

3 A. I would say it was probably December, January timeframe.

4 Q. Okay.

5 A. Just of course because I'm not sure exactly of the date.

6 Q. Okay. Now describe for us as best as you can what was on  
7 this Google Doc form.

8 A. Of course they ask for your name, your partner number just  
9 for tracking purposes, of course. And then farther down it  
10 asks you pick out of these three stores or four stores, however  
11 many there were, what is your first choice, what is your second  
12 choice, what is your third choice. And then of course little  
13 comment section after that in case there's any special needs or  
14 anything like that.

15 Q. Okay. What stores do you recall being on that form for  
16 you to choose from?

17 A. Transit Commons was on there. I believe Walden Anderson  
18 (phonetic) was actually on there. The Genessee store. Depew,  
19 and I believe the Main Street store, as well.

20 Q. Okay. Was Williamsville Place an option on that form?

21 A. No, it was not.

22 Q. Do you recall what your selections were?

23 A. If I'm not mistaken, I had chosen Transit Commons first,  
24 as I had worked there prior. I believe maybe Walden Anderson  
25 since it was the closest to my house. And maybe Depew. I'm

1 not sure.

2 Q. Okay. And just to be clear, at any point on that form did  
3 you select Williamsville Place to --

4 A. No.

5 Q. -- go to? Okay. Now, Jason, at some point were you told  
6 where you would in fact be transferring to?

7 A. Yeah. Approximately two, maybe three at the earliest  
8 weeks prior to us closing, we had a printout posted saying hey,  
9 these are where everybody's going. You know, we were broken up  
10 by --

11 MR. GOODE: Objection. Move to strike. Non-  
12 responsive.

13 JUDGE RINGLER: I'll allow it. Go ahead. You can  
14 continue.

15 THE WITNESS: We were broken up by, like, what stores  
16 were listed there. We were told that the Maple Transit  
17 location was going to get the majority of our partners since  
18 they were I guess in the greatest need or whatever. And then  
19 after that, I remember myself and a chunk of others being  
20 listed as Williamsville Place. And I was like oh, that wasn't  
21 even an option.

22 BY MR. GOODE:

23 Q. At any point prior to your transfer, did you speak with  
24 Jody Keller about whether you would return to Transit Regal  
25 afterwards?

1 A. Yes. The original intention was that the entirety of our  
2 staff was going to return after the renovations were complete.

3 Q. And when you say the original intent, who communicated  
4 that to you?

5 A. Well, it was just a general sense of the communications  
6 that were happening. Wasn't actually specific conversation  
7 with any one person. It was just like hey, we're going to have  
8 these renovations, send you to different stores. When they're  
9 done, we're all coming back.

10 Q. And did that come from Jody Keller?

11 A. It was just a general sense of the entire store's  
12 communications, not specifically from her.

13 Q. Okay.

14 A. But it was the general understanding that we were all  
15 coming back.

16 MR. GOODE: Objection, move to strike. This witness  
17 can only testify about his personal understanding of the  
18 general sense of the store.

19 JUDGE RINGLER: Sustained.

20 BY MR. GOODE:

21 Q. Now, at these meetings, did Keller ever tell you that you  
22 could return to the Trans Regal after the renovations were  
23 done?

24 A. Yeah. We were told that -- I was told that I was  
25 returning after they were done.

1 Q. And that was by Keller?

2 A. Yeah.

3 Q. All right. Anybody else tell you that who's a supervisor?

4 Not a shift supervisor.

5 A. Not a shift supervisor, but --

6 Q. A store manager.

7 A. -- we had an assistant store manager at the time. And she  
8 was involved in those conversations that Jody was having with  
9 us, as well.

10 Q. What was the assistant store manager's name?

11 A. I just know her first name, Ashlynn.

12 Q. And she was at those meetings?

13 A. She was at those meetings that we were having.

14 Q. And did she make comments to that effect, as well?

15 A. Not directly. But she was still involved with that.

16 MR. GOODE: Okay. I have nothing further, Judge.

17 JUDGE RINGLER: Okay. Guessing there's a Jencks  
18 statement?

19 MR. GOODE: Eight pages, yes.

20 JUDGE RINGLER: All right. So time we've got, we've  
21 got 9:30. So we'll reconvene at 9:45.

22 (Brief recess at 9:28 a.m./Reconvened at 9:44 a.m.)

23 JUDGE RINGLER: Yes.

24 MR. BALSAM: Thank you.

25 CROSS EXAMINATION

1 BY MR. BALSAM:

2 Q. Good morning.

3 A. Good morning.

4 Q. You testified on direct regarding the lead up to the  
5 transfer to the Williamsville Place store. And you said that  
6 there was multiple conversations that you had with Jody about  
7 the relocation during the renovation, correct?

8 A. Right.

9 Q. About how many conversations did you have directly with  
10 Jody about the plan for the staff during the renovation?

11 A. Maybe two or three.

12 Q. Okay. Do you remember when exactly those conversations  
13 were?

14 A. Unfortunately, no.

15 Q. Were they one-on-ones, or were they in a group?

16 A. Sometimes they were one-on-one, sometimes they were group.

17 Q. Okay. So you mentioned three discussions you had with  
18 Jody about the renovation. Of those three, how many were one-  
19 on-ones?

20 A. At least one.

21 Q. Okay. And by default, the other two were in a group?

22 A. Yeah.

23 Q. And you mentioned that there was an ASM who was present.  
24 Ashlynn I believe --

25 A. Yeah.

1 Q. -- was her name. In the three occasions that you  
2 testified where Jody discussed the renovation and the plan for  
3 the staff during the renovation, how many times was Ashlynn  
4 present?

5 A. I would say at least once. I cannot confirm specifics.

6 Q. All right. And that one time that you can recall where  
7 Ashlynn was present, was that a one-on-one or was that the  
8 group --

9 A. That was the group one.

10 Q. Group one. Now, you mentioned at some point prior to the  
11 closure of transit regal for the renovation, you were sent a  
12 Google Docs where there were stores listed and a column for you  
13 to identify which of the stores was your preference, correct?

14 A. Correct.

15 Q. Where was that Google Docs sent?

16 A. It was actually, like, a QR code was posted on, like, the  
17 bulletin board in the store for us to scan and fill that out.

18 Q. Okay. And your testimony is that when you scanned the QR  
19 code and it opened up to the Google Docs, that the stores  
20 listed were Transit Commons, Walden Anderson, Genessee Street,  
21 Depew, and Main Street.

22 A. Yes.

23 Q. Correct? And that Williamsville Place was not an option.

24 A. Correct.

25 Q. At any point in time prior to your viewing of that Google

1 Doc spreadsheet, did Jody or Ashlynn or anyone else in  
2 management identify for you that the business needs at  
3 Starbucks would dictate where partners were transferred to  
4 during the renovation?

5 A. Yes. But of course, I was under the understanding that it  
6 was within those stores.

7 Q. Okay. Did anyone actually tell you that the business  
8 needs of those particular stores dictated where you would go  
9 during the renovation?

10 A. With regard to those stores, yes.

11 Q. At any point in time, did anyone, whether it's Jody or  
12 Ashlynn or anyone from management, tell you that there's a  
13 possibility that you could go to a different store depending on  
14 the needs of the business?

15 A. No. We were given those stores as the ones that we were  
16 supposed to be going to.

17 Q. Okay. You testified that you and many others were sent to  
18 Williamsville Place.

19 A. Yes.

20 Q. Do you know exactly how many individuals were transferred  
21 to Williamsville Place during the Transit Regal renovation?

22 A. Approximately seven or eight.

23 Q. How do you know that?

24 A. Some of them, of course, are still working there  
25 presently. And just mentally remembering the approximation of



1 how many names were under that heading.

2 Q. Okay. Now when you found out that you were going to be  
3 sent to Williamsville Place, did you speak to Jody or Ashlynn  
4 or anybody from Starbucks management about that decision?

5 A. Yes. Yes. I did ask, you know, why are we being sent  
6 there. That wasn't on the original list.

7 Q. Who did you ask?

8 A. I believe I asked Jody.

9 Q. Okay.

10 A. And she had mentioned that the store needed us.

11 Q. Did you ask her what she meant by that?

12 A. No, not specifically.

13 Q. And what did you understand that to mean?

14 A. That their --

15 MR. GOODE: Objection.

16 JUDGE RINGLER: I'll allow it. I'll allow it.

17 THE WITNESS: As many of us in that group that was  
18 sent over were all people pleasers, we like to make sure that  
19 things are done right, and we understood that that store needed  
20 help.

21 BY MR. BALSAM:

22 Q. So the business needs of the store, the business needs of  
23 Starbucks and, in particular, the Williamsville Place, needed  
24 more partners. Is that --

25 A. They needed --

1 Q. -- my understanding?

2 A. -- more partners, yeah.

3 Q. Okay. Now, I believe you testified that you still work at  
4 Williamsville Place?

5 A. No, not currently.

6 Q. When did you stop working at Williamsville Place?

7 A. February 23.

8 Q. Okay. After the conclusion of the renovation at Transit  
9 Regal, isn't it true that you decided to stay at Williamsville  
10 Place?

11 A. I did decide to stay there, yes.

12 Q. And isn't it true that you did have the option to return  
13 to Transit Regal if you wanted to?

14 A. It was eluded to. However, it was not specifically cut  
15 and dry that we were given the option to return back.

16 Q. Do you recall giving an affidavit to the National Labor  
17 Relations Board in connection with this case?

18 A. I do.

19 Q. Okay. And if I read you a par where you write at the same  
20 time that I was told that I had the option of going back to the  
21 Transit Regal store. Do you remember that?

22 A. I do.

23 Q. All right.

24 A. Yeah.

25 Q. You then go on to say and the Williamsville Place store.

1 I was told that there was an opening for a shift supervisor at  
2 the Williamsville Place store. I applied for that position and  
3 was selected for it. So isn't it true that the reason why you  
4 decided to stay at Williamsville Place is because you got a  
5 promotion?

6 A. The promotion was not the only reason why I stayed. But  
7 it was definitely a factor in.

8 Q. But you could have gone back to Transit Regal if you  
9 wanted to, correct?

10 A. Actually, at that moment, no.

11 Q. So why --

12 A. And the reason being, as you see in the affidavit as well,  
13 there was a shuffle of partners in the area. And Transit Regal  
14 became then a training store.

15 Q. Right. But then why when you gave your affidavit to the  
16 National Labor Relations Board on November 14, '22, did you  
17 write that you were told that you had the option of going back  
18 to Transit Regal if now you're saying you didn't?

19 A. Just because you were given the option once doesn't  
20 necessarily mean that the option always stood.

21 Q. So your testimony today was that you were not given the  
22 option to return to Transit Regal after the renovation  
23 concluded?

24 A. I was given the option, correct.

25 Q. Okay.

1 A. But that obviously does not always stand, as the business  
2 needs of the stores change.

3 Q. Got it. At the time that the Transit Regal renovation  
4 concluded, did you make a request to return to Transit Regal?

5 A. I did not.

6 Q. Okay. Because you were happy at Williamsville Place?

7 A. Yes, I was.

8 Q. And in fact, you were satisfied working at Williamsville  
9 Place until you decided to leave Starbucks, correct?

10 A. Correct.

11 Q. Okay. Going back to the affidavit that you provided to  
12 the General Counsel of the National Labor Relations Board in  
13 connection with this case, I notice that there's no mention of  
14 a Google Docs, no mention of Google Docs. Why?

15 A. The actual specific -- specificity of it being a Google  
16 Docs I don't recall bringing up. However, I do remember  
17 mentioning about having different locations being available to  
18 us.

19 Q. Okay.

20 A. I'm not sure exactly where in the affidavit that shows.  
21 But I do recall that we were given options of the different  
22 stores.

23 MR. BALSAM: Right. Just one moment, Judge.

24 JUDGE RINGLER: Okay.

25 BY MR. BALSAM:

1 Q. In your affidavit, you also write that you don't believe  
2 any partner was forced to do anything that they did not want to  
3 do. Do you remember that?

4 A. Yes.

5 Q. Right. Because at no point in time did anyone in  
6 Starbucks management ever tell anyone at Transit Regal that  
7 they were being forced to go to Williamsville Place, correct?

8 A. Well, we were told that that was the store that we were  
9 being assigned to.

10 Q. But no partner was forced to go there, right? You were  
11 never told that you had to go there.

12 A. Well, obviously it is an at-will employment. So if you  
13 did not want to go there, you did not have to.

14 Q. Did you ever tell anybody at management that you didn't  
15 want to go to Williamsville Place?

16 A. No. I was happy going with wherever I was told to be  
17 going because I enjoyed my job. And I like serving customers.

18 MR. BALSAM: Nothing further, Judge.

19 JUDGE RINGLER: Okay. Any redirect?

20 MR. GOODE: Can I have 30 seconds, Judge?

21 JUDGE RINGLER: Sure. Let me know when you're ready.

22 MR. GOODE: Thank you, Judge.

23 (Pause)

24 MR. GOODE: I don't have anything further, Judge.

25 JUDGE RINGLER: Okay. Sir, thank you very much for

1 your testimony. You're excused.

2 THE WITNESS: Okay.

3 JUDGE RINGLER: Please do not discuss your testimony  
4 with anyone.

5 THE WITNESS: Okay. Thank you so much.

6 JUDGE RINGLER: Thank you, too.

7 THE WITNESS: Everybody have a nice day.

8 JUDGE RINGLER: You too. All right.

9 MR. GOODE: Can we take five minutes before our next  
10 witness, Judge?

11 JUDGE RINGLER: Absolutely. Absolutely. So we'll  
12 start again --

13 MR. GOODE: That witness is here. Just --

14 JUDGE RINGLER: We'll start again at ten o'clock.

15 MR. GOODE: Thank you.

16 JUDGE RINGLER: All right. Off the record until that  
17 point.

18 (Brief recess at 9:55 a.m./Reconvened at 10:02 a.m.)

19 JUDGE RINGLER: On the record.

20 MR. BALSAM: Judge, counsel for the General Counsel  
21 and myself had a brief conversation about the document that I  
22 mentioned before where we were seeking it to be called back as  
23 a result of us realizing it is in fact privileged.

24 The counsel for the General Counsel is unwilling to  
25 concede that point. And so I want to put on the record our

1 position so that the counsel for the General Counsel can  
2 formally respond to it. I'm not sure how you're going to  
3 handle this.

4 JUDGE RINGLER: Yeah. I mean, rather than putting  
5 your position on the record now, do you want to submit a very  
6 short motion to me, and they could reply so we could do it more  
7 formally.

8 MR. BALSAM: Whatever you think is appropriate,  
9 Judge.

10 JUDGE RINGLER: Yeah, I'd rather do that. Yeah. I  
11 think that would make more sense.

12 MR. BALSAM: Okay. Then we'll do that by today.

13 JUDGE RINGLER: Okay. Okay. Very good. Very good.  
14 And then I'll give you a day or two to reply. And we'll take  
15 it from there. This is just a single document that we're  
16 talking about?

17 MR. BALSAM: Single document.

18 JUDGE RINGLER: Yeah.

19 MR. BALSAM: Email chain.

20 JUDGE RINGLER: Okay.

21 MR. BALSAM: Yeah.

22 JUDGE RINGLER: All right. So let's start with  
23 our --

24 MR. GOODE: Allegra --

25 JUDGE RINGLER: -- next witness. All right.

1 MR. BALSAM: -- Anastasi, Judge.

2 JUDGE RINGLER: All right. All right. Please make  
3 yourself comfortable. If you've got a bottle of water, too,  
4 feel free to, you know, break it out and use it. Okay. All  
5 set? All right. First and foremost, can you state your name  
6 for the record, and spell it for us first, please?

7 Ms. ANASTASI: My name is Allegra Anastasi. It's  
8 spelled A-L-L-E-G-R-A, A-N-A-S-T-A-S-I.

9 JUDGE RINGLER: Okay, perfect. Please raise your  
10 right hand.  
11 Whereupon,

12 ALLEGRA ANASTASI,  
13 was called as a witness having been duly sworn, was examined  
14 and testified as follows:

15 JUDGE RINGLER: All right. And, Counsel, what  
16 complaint paragraphs do we have for our witness?

17 MR. GOODE: 9I, 9J, and I believe 11J, Judge.

18 JUDGE RINGLER: Okay. So we've got 9, 9I, all right.  
19 9J. And 11J. Okay. Go to it.

20 DIRECT EXAMINATION

21 BY MR. GOODE:

22 Q. Allegra, have you ever worked for Starbucks?

23 A. I have, yes.

24 Q. When did you first begin working for Starbucks?

25 A. I started my employment with Starbucks on June 8th of



1 2014.

2 Q. Okay. And where were you located when you first started  
3 working for Starbucks?

4 A. I was located -- I was hired at the Southridge Mall  
5 location in Greendale, Wisconsin.

6 Q. And how long did you work for Starbucks in Wisconsin?

7 A. I worked in Wisconsin from June 8th, 2014 through August  
8 of 2019 when I transferred to Buffalo.

9 Q. Okay. So in August of 2019, you transferred to Buffalo?

10 A. Uh-huh.

11 Q. And, sorry --

12 A. Oh, yeah.

13 Q. -- you just have to say --

14 A. Oh, sorry. Sorry. Yes. I'm so sorry.

15 Q. So when you transferred to Buffalo, what store did you  
16 begin working at?

17 A. I worked at the Delaware and Kenmore location. And I  
18 worked there from August of 2019 through March of 2020.

19 Q. And then as of March of 2020, did you continue your  
20 employment with Starbucks?

21 A. Yes, I did. I transferred to the Delaware and Chippewa  
22 location where I worked from March of 2020 through my time of  
23 termination.

24 Q. Okay. At the Delaware and Chippewa store, is that  
25 referred to as -- does that have a nickname?

1 A. Yes. Sometimes we call it Del Chip.

2 Q. Okay.

3 JUDGE RINGLER: Del Chip?

4 THE WITNESS: Uh-huh.

5 JUDGE RINGLER: Okay.

6 BY MR. GOODE:

7 Q. At the time that you were discharged, Allegra, what was  
8 your position with Starbucks?

9 A. My position was a shift supervisor.

10 Q. Okay. Allegra, at Del Chip, did there come a time when  
11 union activity began?

12 A. Yes. We petitioned for union --

13 MR. BALSAM: Objection. Move to strike, non-  
14 responsive.

15 JUDGE RINGLER: I'll allow it. Go ahead, you can  
16 answer.

17 THE WITNESS: We petitioned for unionization in  
18 January of 2022. But there was talk of union -- unionization  
19 and --

20 MR. BALSAM: Objection. Hearsay.

21 JUDGE RINGLER: It's just background information.  
22 I'll permit information about the petition and how it started.  
23 Go ahead.

24 THE WITNESS: There was talk of unionization in fall  
25 of 2021.

1 BY MR. GOODE:

2 Q. And did you show support for that unionization in fall of  
3 2021?

4 A. Yes. I signed a union card in fall of 2021, and wore  
5 union pins on my apron, as well as --

6 Q. Let me stop you there. Can you describe those pins that  
7 you wore on your apron?

8 A. Yeah. They were a circular pin that had the Starbucks  
9 Workers United logo on them. And there were various pins that  
10 had such as the Pride one which was rainbow in color, or other  
11 ones promoting other cities. But it said Starbucks Workers  
12 United on it.

13 Q. Okay. How often did you wear those pins?

14 A. Almost every day.

15 Q. And how did you wear them while at work?

16 A. I wore --

17 MR. BALSAM: Objection. Asked and answered. The  
18 witness already testified that she wore them on her apron.

19 JUDGE RINGLER: Go ahead. You could answer. I'm not  
20 sure that I heard that or not. Go ahead.

21 THE WITNESS: I would wear them on my apron, which  
22 was a part of my uniform. I would usually wear them on the  
23 right side of my apron.

24 BY MR. GOODE:

25 Q. Allegra, did you start -- are you aware of whether the Del

1 Chip employees submitted a --

2 MR. BALSAM: Objection. Hearsay.

3 JUDGE RINGLER: Let me hear that full question first.  
4 Go ahead.

5 MR. GOODE: I can rephrase.

6 BY MR. GOODE:

7 Q. Allegra, did the Del Chip -- was there a Dear Kevin letter  
8 sent for the Del Chip store?

9 A. Yes, there was.

10 Q. If I showed you that letter, would you recognize it?

11 A. Yes, I would.

12 JUDGE RINGLER: Thank you. So we've got GC-78 in  
13 front of our witness.

14 (General Counsel Exhibit 78 identified.)

15 Q. Allegra, can you take a look at what's been marked for  
16 purposes of identification as GC Exhibit 78. Let me know when  
17 you're finished.

18 A. Okay. I read it again. Finished.

19 Q. Okay. Do you recognize this document?

20 A. Yes, I do.

21 Q. What is this?

22 A. This is the form or the letter that we sent to our CEO,  
23 Kevin Johnson, telling them and management that we wanted to  
24 petition for a union at our location.

25 Q. Is your -- does your name appear on this document?

1 A. Yes, it does.

2 Q. Can you tell us what page it's on?

3 A. The second page under signatories. And I'm the first name  
4 there.

5 MR. GOODE: I offer GC-78, Judge.

6 MR. BALSAM: Voir dire?

7 JUDGE RINGLER: Go ahead.

8 VOIR-DIRE EXAMINATION

9 BY MR. BALSAM:

10 Q. Allegra, you said that this document was sent. How do you  
11 know this document was sent?

12 A. It was sent via email to management. I do not recall  
13 which manager it was sent to. But it --

14 Q. Did you --

15 A. -- was also posted on social media.

16 Q. Did you personally send this document to management of  
17 Starbucks?

18 A. I did not.

19 Q. So as you sit here today, you don't know if this letter  
20 was actually sent to management of Starbucks, correct?

21 A. I know it was sent to management, but I do not know to  
22 which management it was sent to. I do not recall.

23 Q. All right. And just so I'm clear, if you didn't send it,  
24 how do you know it was sent?

25 A. I'm -- somebody told me. It was discussed with our people

1 at the store that we were going to send it.

2 Q. Do you know who sent this?

3 A. I do not remember.

4 Q. And do you know the date that this letter was sent?

5 A. It was in January of 2022.

6 Q. How do you know that it was in January of 2022?

7 A. The Workers United Twitter posted almost immediately after  
8 that it was sent.

9 MR. BALSAM: Okay. Judge, I object on the grounds  
10 that this witness has no personal knowledge as to whether this  
11 document --

12 JUDGE RINGLER: Yeah. No, I think that's  
13 appropriate. I mean, at this point we really don't know who  
14 emailed the letter. We don't know who it was emailed to. And  
15 in terms of the when, we think it's roughly January 2022, but  
16 we're not more certain than that.

17 So at this point, I've got to reject GC-78. So I'll  
18 put GC-78 in the rejected exhibit folder, certainly subject to,  
19 you know, if you call a different witness to fill in those  
20 details. We can look at it again. All right. So GC-78  
21 rejected exhibit folder. Okay.

22 BY MR. GOODE:

23 Q. Allegra, you testified that you saw it posted on social  
24 media. Can you explain what you meant?

25 A. Yes. It was -- this letter was posted on the Workers

1 United Twitter account. And it state -- the tweet stated that  
2 the Buffalo Delaware and Chippewa store petitioned for a union.

3 Q. And was the letter that's marked as GC Exhibit 78, was  
4 that included in the tweet?

5 A. It was.

6 Q. Allegra, did you participate in any strikes at Del Chip?

7 A. I did, yes.

8 Q. Which -- I'm sorry, what strikes do you recall  
9 participating in?

10 A. There was a strike on May 5th of 2022 that I was there as  
11 a demonstrator. And there was also a strike, or there was  
12 several strikes between July 12th and July 14th of 2022. I  
13 participated at at least one of those days, the demonstration.

14 Q. And at that demonstration, what did you do?

15 A. I held up signs stated the reasons that we striked, urging  
16 the public to be in support of my store.

17 Q. Allegra, I'm showing you what's been marked for purposes  
18 of identification as Exhibit 79.

19 (General Counsel's Exhibit 79 identified.)

20 Q. Will you please take a look at that document and let me  
21 know when you're finished?

22 A. I'm finished.

23 Q. Do you recognize this document?

24 A. Yes, I do.

25 Q. What is this?

1 A. This is my final written warning that I received in March  
2 of 2022 for time and attendance, and violation of a Siren's Eye  
3 policy.

4 Q. Okay. Can you turn to the second page, please? Is your  
5 signature on this document?

6 A. Yes, it is.

7 Q. And above what line is your signature?

8 A. Above the partner line.

9 MR. GOODE: Move for the admission of GC-79, Judge.

10 JUDGE RINGLER: Any objection to 79?

11 MR. BALSAM: No objection, Judge.

12 JUDGE RINGLER: All right. We'll admit GC-79.

13 (General Counsel's Exhibit 79 admitted into evidence)

14 BY MR. GOODE:

15 Q. Allegra, if I can have you take a look at GC-79. So in  
16 the middle there, we see four dates listed. Do you recall, or  
17 do you have any reason to dispute that you were late on those  
18 days?

19 A. I do not.

20 Q. Did you have a practice if you were going to be late, what  
21 you did?

22 A. I most times would call the store as per the manager's  
23 request, either call the manager which was Heather, or call the  
24 store phone number and let the supervisor on duty know that I  
25 was going to be a few minutes late, and that I was going to be



1     there soon.

2     Q.    Did you call ahead on the dates in question?

3     A.    Yes.

4     Q.    I'm going to direct your attention to the dash that begins  
5     3/1.   Do you see that?

6     A.    Yes, I do.

7     Q.    Okay.  Do you recall working that day?

8     A.    I do, yes.

9     Q.    Okay.  And what occurred on that day?

10    A.    Well, after I --

11               MR. BALSAM:  Could we, for the record, clarify what  
12    date we're referring to here?

13               JUDGE RINGLER:  I think that's appropriate.  What  
14    date?

15               MR. GOODE:  I'm just directing the witness to March  
16    1st.   3/1.

17               JUDGE RINGLER:  Okay.  Okay.

18               THE WITNESS:  And on that day, I was scheduled to  
19    close, besides my closing duties, and a clean play shift that I  
20    can explain later the duties I had to do for that.  I was  
21    instructed to do the Siren's Eye for the store to be finished  
22    by the next day.

23    Q.    Okay.  So let's unpack that a little bit.  So you said you  
24    were scheduled for a closing shift.  What typically were the  
25    hours of a closing shift?

1 A. The hours of the closing shift were typically, I don't  
2 remember what time I started. But it typically was from mid-  
3 afternoon to 7:30. And we closed the store at 7:00 p.m.

4 Q. Okay. So then you mentioned something called a clean  
5 play. What's a clean play?

6 A. The clean play was a weekly deep cleaning that members of  
7 the store did. And usually, it was done with one barista and  
8 one supervisor or two baristas and one supervisor.

9 Q. Is that something that takes place after the store closes?

10 A. Yes, it does.

11 Q. And prior to March 1st, had you ever done a clean play  
12 before?

13 A. Yes, I have.

14 Q. Can you estimate how often?

15 A. I did them at Delaware and Chippewa pretty frequently. I  
16 was the supervisor that was in charge of them. But also at my  
17 time in the past in Wisconsin, I would do these shifts, as  
18 well.

19 Q. Okay. Now in your experience at Del Chip, the Del Chip  
20 place, how long would those typically take?

21 A. At Delaware and Chippewa, at the time that we're talking  
22 right now, they -- sorry. They would typically take about two  
23 or three hours. But I was only given an hour and a half to  
24 complete this with one other person.

25 Q. On March 1st?

1 A. On March 1st, yes.

2 Q. Okay. So then you also mentioned something called a  
3 Siren's Eye. Can you explain what that is?

4 A. During the Siren's Eye is basically the instructions of  
5 how to present certain marketing for the store. That includes  
6 menu boards, new signs for advertisement for products, things  
7 like that before, like, a spring launch or a product launch.  
8 And you would set up different menu boards, throw away the old  
9 menu boards, set the store up a certain way.

10 Q. So on March 1st, did you complete the clean play for that  
11 day?

12 A. Yes, I did. I, from 7:30 p.m. when our closing shift was  
13 done 'til 9:30 p.m. we, me and one other barista, did our clean  
14 play shift.

15 Q. Okay.

16 A. Or I'm so sorry. Between, yeah, 7:30 p.m. and 9:30 p.m.

17 Q. Did you -- were you able to complete the Siren's Eye?

18 A. I was not.

19 Q. Okay. Now, did you alert anybody that you were not able  
20 to complete the Siren's Eye?

21 A. Yes, I did. I wrote in our daily records book which was  
22 the official store form of communication. I messaged the --  
23 the supervisor that was working the next morning that I was  
24 unable to do it. And I also messaged my friend that was also a  
25 supervisor who was not working, but I asked her -- I was

1 telling her about it.

2 Q. Allegra, I'm going to go back, step back a second. And  
3 I'm going to direct your attention to the listed dates for the  
4 parties, January 20th, 21st, January 26th, and February 24th.  
5 So let's start with January 20th. Did anybody between January  
6 20th and March 13th when you received this document, did  
7 anybody talk to you from management about being late that day?

8 MR. BALSAM: Objection. Relevance.

9 JUDGE RINGLER: I'll allow it. Go ahead.

10 THE WITNESS: No.

11 BY MR. GOODE:

12 Q. Okay. What about for the occurrence on January 21st?

13 A. No.

14 Q. And then what about for the other two occurrences?

15 A. No, they did not.

16 Q. I'm showing you what's been marked for purposes of  
17 identification as GC Exhibit 80.

18 (General Counsel's Exhibit 80 identified.)

19 Q. Can you look at this document, let me know when you're  
20 finished.

21 A. Okay.

22 Q. Do you recognize this document?

23 A. Yes, I do.

24 Q. And what is this?

25 A. It's my notice of separation from the company.

1 Q. Did you sign this document?

2 A. I did not.

3 MR. GOODE: Your Honor, I move to admit GC-80.

4 JUDGE RINGLER: Any objection to GC-80?

5 MR. BALSAM: No objection, Judge.

6 JUDGE RINGLER: GC-80's admitted.

7 (General Counsel's Exhibit 80 admitted into evidence)

8 BY MR. GOODE:

9 Q. Allegra, I'm going to direct your attention to a -- the  
10 third line of the manager's statement in the box where it says  
11 written warning on January 24th, 2020. Do you see that?

12 A. Yes, I do.

13 Q. Were you working at Del Chip as of that date?

14 A. I was not working at Delaware and Chippewa.

15 Q. Do you recall that written warning?

16 A. I do. I received it at -- I received it at the Delaware  
17 and Kenmore location. At that time, it was a coaching because  
18 my manager believed I caused somebody to slip and fall.

19 Q. So just to be clear, was that a time and attendance  
20 written warning?

21 A. It was not.

22 Q. Allegra, at the time of receiving this notice of  
23 separation, who was your store manager?

24 A. My store manager was Kirsten Kifner who went by Kae.

25 Q. By Kae. Okay. So in this time period around your notice

1 of separation -- actually, strike that. The summer of -- I'm  
2 sorry. Strike that, Judge. When did Kae become the store  
3 manager?

4 A. Kae became the store manager of Delaware and Chippewa  
5 around May of 2022.

6 Q. Okay. So Kae was your store manager from May until your  
7 notice of separation?

8 A. Yes.

9 Q. How often were you scheduled to work on the same days that  
10 Kae worked, roughly?

11 A. Roughly like almost every day. She wouldn't work  
12 weekends. But I would be there almost every single day during  
13 the weekdays, and so would she.

14 Q. Okay. Did Kae -- was Kae ever scheduled to work on the  
15 floor with you all?

16 A. Yes. There were certain times when she would be scheduled  
17 as coverage, and it would be listed in our daily coverage  
18 report of when certain people were supposed to be on the floor  
19 or do administrative work, or be, quote/unquote, non-coverage  
20 and I would see when she would need to be on the floor with me  
21 and be a part of our, you know, helping customers.

22 Q. In your experience, was Kae ever late to work?

23 A. Yeah.

24 Q. How often?

25 A. I would say -- sorry, thinking. I would say many times

1 between May of 2022 through July or August. Sometimes she  
2 would be up to 45 minutes, an hour late without giving anybody  
3 notice.

4 Q. Was that ever documented?

5 A. Yes, it was.

6 Q. Where was that document?

7 A. It was documented in our daily records book.

8 MR. GOODE: I have nothing further, Judge.

9 JUDGE RINGLER: Okay. I'm assuming there's Jencks  
10 statement.

11 MR. GOODE: Ten pages, Judge.

12 JUDGE RINGLER: Okay. So roughly 10:30. So 10:45  
13 we'll be back together.

14 MR. BALSAM: Judge, I have to use the restroom.  
15 Could we have --

16 JUDGE RINGLER: 10:20. 10:50.

17 MR. BALSAM: 10:50.

18 JUDGE RINGLER: 10:50. My math is off this morning.

19 MR. BALSAM: It's all right. It's Monday. We get  
20 it.

21 JUDGE RINGLER: All right. We'll see you then.  
22 Thank you.

23 (Brief recess at 10:27 a.m./Reconvened at 10:48 a.m.)

24 JUDGE RINGLER: Okay. Back on. Ready when you are.

25 MR. BALSAM: Thanks, Judge.

1 JUDGE RINGLER: Yes.

2 CROSS EXAMINATION

3 BY MR. BALSAM:

4 Q. Hi, Allegra. How are you?

5 A. Good. How are you, Ethan?

6 Q. Good. When you started working at Starbucks, I believe  
7 you testified it was in June of 2014. Did you receive a copy  
8 of the partner guide?

9 A. I do not remember.

10 Q. Okay. When you transferred to the Buffalo market, did you  
11 receive a copy of the partner guide?

12 A. No.

13 Q. At any point in time when you were in the Buffalo market,  
14 were you provided a copy of the partner guide?

15 A. When I first transferred, I did not. I believe at some  
16 time I might have seen a partner guide at my time at Del Chip.  
17 But I did not receive one for my personal use.

18 Q. Okay.

19 A. I believe.

20 Q. Prior to the time that you saw the partner guide when you  
21 were at Del Chip, you were in fact aware of Starbucks' time and  
22 attendance policy, correct?

23 A. Yes.

24 Q. Yes. And you knew that there was an expectation that you  
25 were on time for each shift, correct?



1 A. Yes.

2 Q. And that if you were not on time to work for each shift,  
3 it had negative implications on the rest of the team who was  
4 working that day, correct?

5 A. Yes.

6 Q. You've been handed what's been marked as RX-27.

7 (Respondent's Exhibit 27 identified)

8 Q. Do you recognize RX-27?

9 A. Yeah.

10 Q. And this is the time and attendance policy that was handed  
11 to you during your time at Del Chip, correct?

12 A. Yeah.

13 Q. And on the second page, that's your signature  
14 acknowledging receipt of it?

15 A. Yes.

16 MR. BALSAM: Okay. I move into evidence RX-27,  
17 Judge.

18 JUDGE RINGLER: Any objection to R-27?

19 MR. GOODE: No objection.

20 JUDGE RINGLER: All right. So we'll admit R-27.

21 (Respondent's Exhibit 27 admitted into evidence)

22 BY MR. BALSAM:

23 Q. Allegra, prior to January of '22 when your store, Del  
24 Chip, filed the petition to unionize, you were in fact late to  
25 work on multiple occasions in both Del Chip as well as the

1 Delaware Kenmore, correct?

2 A. Yes.

3 Q. Okay. And for those instances in which you were late, in  
4 violation of the time and attendance policy, you did receive  
5 multiple corrective action forms, correct?

6 A. Yes, at different times.

7 Q. Okay. And during your direct examination, we were talking  
8 about the notice of separation and how it, according to you,  
9 referenced a written warning that you had received at Delaware  
10 and Kenmore for a slip-and-fall issue, correct?

11 A. Yes.

12 Q. Okay. And you testified that the date reflected in the  
13 corrective action form where you received the written warning  
14 on 12/16/22 was for that slip-and-fall. Do you remember that  
15 testimony?

16 A. Can you repeat that?

17 Q. Sure. When the counsel for the General Counsel asked you  
18 questions about the corrective action form and how it  
19 referenced -- I'm sorry. Notice of separation and how it  
20 referenced a written warning you had received on 1/24/20, your  
21 testimony was that that was relating to a slip-and-fall issue,  
22 correct?

23 A. Yes. That's what I believe it was.

24 Q. You have been handed what's been marked as RX-28.

25 (Respondent's Exhibit 28 identified)

1 Q. Do you recognize RX-28?

2 A. Yes, I do.

3 Q. Okay. And RX-28 is dated December 4th, 2019, correct?

4 A. Yes.

5 Q. All right. And this document is a corrective action form  
6 that was issued to you with respect to a slip-and-fall,  
7 correct?

8 A. Yes.

9 Q. Okay. Is this the slip-and-fall corrective action form  
10 that you were referencing earlier during the direct  
11 examination?

12 A. It was. I was under the understanding that -- I got the  
13 dates wrong, basically.

14 Q. Okay.

15 A. I do not -- they were close in time. I did not -- I said  
16 earlier something else. I misremembered.

17 Q. Okay. So in your notice of separation where it references  
18 how you had received a written warning for time and attendance  
19 on 1/24/20, when you testified that that related to a slip-and-  
20 fall, that was not accurate, correct?

21 A. It was not, but not to my -- I did not do that  
22 intentionally.

23 Q. Okay. And you acknowledge receiving the corrective action  
24 form which is marked as RX-28, correct?

25 A. Yes.

1 Q. In fact, on the bottom left-hand side, that is your  
2 signature.

3 A. Yes.

4 MR. BALSAM: Judge, I move into evidence RX-28.

5 JUDGE RINGLER: Any objection?

6 MR. GOODE: No objection, Judge.

7 JUDGE RINGLER: All right. We'll admit R-28.

8 (Respondent's Exhibit 28 admitted into evidence)

9 BY MR. BALSAM:

10 Q. You have in front of you RX-29.

11 (Respondent's Exhibit 29 identified.)

12 Q. Do you recognize RX-29?

13 A. One second.

14 Q. Sure.

15 A. Yeah, I'm done.

16 Q. Do you recognize RX-29?

17 A. Yes. Now I do.

18 Q. Okay. And RX-29 is a corrective action form, specifically  
19 a written warning that you received for time and attendance  
20 violations, correct?

21 A. Yes.

22 Q. All right. And this is the document that is referenced in  
23 your notice of separation, correct?

24 A. It is.

25 MR. BALSAM: Okay. Judge, I move into evidence RX-

1 29.

2 JUDGE RINGLER: Any objection to R-29?

3 MR. GOODE: No objection.

4 JUDGE RINGLER: All right. We'll admit R-29.

5 (Respondent's Exhibit 29 admitted into evidence)

6 BY MR. BALSAM:

7 Q. And, Allegra, just looking at the box where it says  
8 statement of situation, it says Allegra was late on 1/10/20 for  
9 45 minutes, 1/11/20 for 75 minutes, and 1/13/20 for 35 minutes.  
10 Do you see that?

11 A. I do.

12 Q. Do you agree that you were late on those particular  
13 dates --

14 A. I --

15 Q. -- as reflected in the document?

16 A. I don't remember. But I -- I don't remember exactly. But  
17 I don't have reason to object.

18 Q. And in fact, in the partner statement, is that your  
19 handwriting?

20 A. Yes, it is.

21 Q. And in that section, you wrote that you learned from your  
22 mistakes and actions, that you hope that in transferring, you  
23 can correct this action, correct?

24 A. Yes. That's what I wrote.

25 Q. Okay. And as you testified, you transferred from Delaware

1 Kenmore to Delaware Chippewa, correct?

2 A. Yes, I did.

3 Q. And in fact, your time and attendance issues continued  
4 upon your transfer to Delaware and Chippewa, correct?

5 A. Yes.

6 Q. Now, Allegra, you understood that by virtue of  
7 continuously violating Starbucks' time and attendance policies,  
8 you could be subject to termination, correct?

9 A. Yes.

10 Q. Yet you continued to be late to work, correct?

11 A. Yes.

12 Q. And in fact, shortly upon your transfer to Delaware and  
13 Chippewa, you did receive a document coaching from store  
14 manager Robert Hunt (phonetic). Do you remember that?

15 A. When was that?

16 Q. Do you remember receiving a document as a coaching from  
17 Robert Hunt regarding time and attendance upon your transfer to  
18 Delaware and Chippewa?

19 A. Upon my transfer to Delaware and Chippewa from Robert  
20 Hunt? No, because he started at Delaware and Chippewa in,  
21 like, in fall of 2021.

22 Q. So let me rephrase. When you transferred to Delaware and  
23 Chippewa, you started to receive correction action forms  
24 regarding time and attendance issues, correct?

25 A. I don't remember.

1 Q. You've been handed what's been marked RX-30.

2 (Respondent's Exhibit 30 identified.)

3 Q. Do you recognize RX-30?

4 A. One second. Okay.

5 Q. Do you recognize RX-30?

6 A. Yes.

7 Q. Okay. And this is a corrective action form that you were  
8 issued on September 14th, 2021?

9 A. Yes.

10 Q. Okay. And you see in the statement of situation it says  
11 Allegra has 15 instances of lateness from 8/2/21 to 9/14/21?  
12 You see that?

13 A. Yes, I see that.

14 Q. Do you disagree with that statement?

15 A. I don't.

16 Q. And then it says this corrective action serves as notice  
17 that this attendance issue must end immediately. Do you see  
18 that?

19 A. Yes.

20 Q. And isn't it true that you understood that to mean that  
21 continued failure to abide by Starbucks' time and attendance  
22 policy would result in additional discipline up to and  
23 including termination?

24 A. Yes.

25 Q. Okay. And just to ensure that I understand the timeline

1 here, your testimony is that it wasn't until January of '22  
2 that you petitioned at Delaware and Chippewa to form a union,  
3 correct?

4 A. Yes. But I was what -- I had let -- I was in support of  
5 the union in September to 2021.

6 Q. Before or after your receipt of this corrective action  
7 form?

8 A. Before.

9 Q. Before? Isn't it true that the union didn't make itself  
10 known generally until the end of August, '21?

11 A. Yeah.

12 Q. And so the latenesses that you were documented for here  
13 occurred prior to -- some of them occurred prior to the  
14 notification of the -- notification by Workers United of their  
15 intent to start a union, correct?

16 A. Could you repeat that?

17 Q. Sure. You acknowledge that on 15 instances of lateness  
18 occurring between -- you acknowledge the correctness of 15  
19 instances of lateness occurring between September 2nd, '21 and  
20 September 14th, '21, correct?

21 A. Yes.

22 Q. Okay. And so some of those latenesses that you were  
23 issued a document and coaching for occurred prior to the union  
24 making itself known of its intent to unionize Starbucks,  
25 correct?



1 A. Yes, before my -- yeah. I'm sorry.

2 Q. And in fact, what this document reflects is a continuation  
3 of your issues that you had prior to the union making itself  
4 known of its interest in starting a union at Starbucks,  
5 correct?

6 A. Yes. But it was not received until after the union made  
7 itself known.

8 Q. Right. And in fact, this is just a document for coaching,  
9 correct?

10 A. Yes.

11 Q. And so Robert Hunt was a new manager to you, correct, at  
12 the time that he issued this corrective action form?

13 A. Yeah. I believe Robert started in July of 2022.

14 Q. Okay. So this was a new manager who gave you, presumably,  
15 a second chance to try to correct your time and attendance  
16 issues by issuing you a document to coach you, right?

17 A. Yes, but there was a different manager in between when  
18 Robert was there. There were several managers at the Delaware  
19 and Chippewa store between when I transferred and when Robert  
20 was there.

21 Q. But at this point in time, Robert Hunt didn't immediately  
22 terminate you. He provided you with a document and coaching  
23 instead, even though you had multiple infractions of time and  
24 attendance, correct?

25 A. Yes. He gave me a document of coaching.

1 Q. And even though, based on your testimony, Starbucks was  
2 aware of the fact that you had already been interested in  
3 forming a union at your store, correct?

4 A. Yes, because I let it be known that I was in support of  
5 the union before I received this.

6 Q. Right. But nonetheless, Starbucks didn't terminate your  
7 employment based on this violation of time and attendance,  
8 correct?

9 MR. GOODE: I'm going to object. I think it's asked  
10 and answered at this point, Judge. I mean, it's clear that the  
11 witness wasn't terminated at the time.

12 JUDGE RINGLER: Sustained.

13 BY MR. BALSAM:

14 Q. Now, Allegra, even after receiving this correction action  
15 form on September 14th, 2021, you continued to violate  
16 Starbucks' time and attendance policy, right?

17 A. Not intentionally, but yes.

18 Q. But you did violate Starbucks time and attendance policy?

19 A. Yes.

20 Q. And in fact, -- and in fact, in December of '21, you were  
21 issued a written warning for your continued violation of  
22 Starbucks time and attendance policy, correct?

23 A. Yes.

24 JUDGE RINGLER: Counsel, I don't think you moved to  
25 admit R-30. Am I --

1 MR. BALSAM: If I didn't, then I'd like to do that,  
2 Judge.

3 JUDGE RINGLER: Okay.

4 MR. GOODE: No objection.

5 JUDGE RINGLER: All right. So we'll admit R-30.  
6 That's in.

7 (Respondent's Exhibit 30 admitted into evidence)

8 BY MR. BALSAM:

9 Q. You've been handed what's been marked RX-31.

10 (Respondent's Exhibit 31 identified.)

11 Q. Do you recognize this document?

12 A. Yes.

13 Q. Okay. And this document is the written warning that was  
14 issued to you on December 18th, '21, correct?

15 A. Yes.

16 Q. And it reflects multiple occasions where you were late to  
17 work, correct?

18 A. Yes.

19 Q. And in fact, on at least three occasions you were late, on  
20 one time 30 minutes late, another one 23 minutes late, and  
21 another one 27 minutes late, correct?

22 A. Yes.

23 Q. All right. Do you disagree that you were late on these  
24 dates?

25 A. No.

1 MR. BALSAM: Judge, I'd like to move into evidence  
2 RX-31.

3 JUDGE RINGLER: Any objection to R-31?

4 MR. GOODE: No objection.

5 JUDGE RINGLER: All right. We'll admit R-31.

6 (Respondent's Exhibit 31 admitted into evidence)

7 BY MR. BALSAM:

8 Q. And again, you understood by virtue of receiving this  
9 document that continued violations of Starbucks' time and  
10 attendance policy would in fact result in additional discipline  
11 up to and including termination?

12 A. Yeah.

13 Q. And yet you continued to violate Starbucks' time and  
14 attendance policies, correct?

15 A. Yes.

16 Q. And then counsel for the General Counsel showed you what  
17 was introduced into evidence as GC Exhibit 79 which is the  
18 final written warning, right?

19 A. Uh-huh. Yes.

20 Q. And do GC Exhibit 79 is reflective of the -- your  
21 continued violations of Starbucks' time and attendance  
22 policies, correct?

23 A. Yes.

24 Q. And in fact, the majority of what's referenced in the  
25 final written warning concerns your additional tardiness even

1 in the face of potential termination from employment, correct?

2 A. Yes.

3 Q. Now, there was some discussion about the fact that you  
4 failed to complete the Siren's Eye setup on March 1st. Do you  
5 recall that testimony?

6 A. Yes.

7 Q. You testified to the fact that in addition to having to  
8 complete the Siren's Eye, on that particular day you were  
9 responsible for conducting the clean play, correct?

10 A. Yes.

11 Q. Initially when you were asked the question, you were told  
12 that it -- you were only given one and a half hours to complete  
13 this. Do you recall that?

14 A. I do. But I think I was adding up the -- the times wrong.  
15 I was given -- I'm so sorry. I did say I was only given one  
16 and a half hours to complete. But I was -- sorry. I didn't --  
17 was just adding up the amount of time wrong, which was not  
18 intentional. But I was just trying to remember that we were  
19 not given the amount of people that usually was given for the  
20 amount of work that we had to do in two hours.

21 Q. So your testimony now is that you were given two hours to  
22 complete the clean play, not the one and a half that you  
23 originally testified to, correct?

24 A. Yes.

25 Q. But didn't you testify earlier that clean plays were

1 always two people?

2 A. I didn't say that, or I didn't --

3 Q. And in fact, didn't you say that typically it's a shift  
4 supervisor and a barista?

5 A. If there are two people clean -- I testified that the --  
6 sorry. I meant to say the clean play is usually with two  
7 people for three hours or three people with two hours. And we  
8 were only given two people with two hours. So that was what I  
9 meant to convey.

10 Q. At the time that you did this clean play, you were in fact  
11 the shift supervisor on duty, correct?

12 A. Yes.

13 Q. Couldn't you have requested an additional barista stay on  
14 to help you complete the clean play?

15 A. I tried to in the past.

16 Q. I'm not talking about the past. I'm talking about this  
17 specific situation.

18 MR. GOODE: No. She's answering the question.

19 MR. BALSAM: It's about this particular situation,  
20 Judge.

21 MR. GOODE: That was not the question.

22 MR. BALSAM: Yes, it was.

23 MR. GOODE: It wasn't.

24 JUDGE RINGLER: I'll sustain the objection. You can  
25 certainly clarify whatever you want on redirect. Go ahead. Do

1 you want him to ask the question again?

2 THE WITNESS: Yes.

3 BY MR. BALSAM:

4 Q. On this particular situation, March 1st, when you were  
5 doing the clean play, did you ask any other baristas to stay on  
6 so that you could have three people working?

7 A. I did not, because that's not my responsibility.

8 Q. But you said -- you were just about to testify that in the  
9 past, you had done that.

10 A. In the past, I asked management to give me more people.  
11 And they have not.

12 Q. But in this time, you didn't do that.

13 A. This time I didn't do it because I didn't see that -- I  
14 didn't see that request being fulfilled.

15 Q. Right. But you didn't do it. That's the bottom line,  
16 correct? You didn't do it. You didn't call anyone to ask for  
17 additional help.

18 MR. GOODE: Objection. Asked and answered at this  
19 point.

20 JUDGE RINGLER: I'll allow it. Go ahead.

21 BY MR. BALSAM:

22 Q. You didn't ask anyone for additional help, correct?

23 A. I did not --

24 Q. All right.

25 A. -- this particular time.

1 Q. When did you find out that you were supposed to complete  
2 the Siren's Eye setup?

3 A. After I clocked in for my shift on the 1st of March.

4 Q. So on March 1st, what time did you clock in?

5 A. I don't remember.

6 Q. Was it -- how long was your shift on March 1st?

7 A. I don't remember. Like I said --

8 Q. What's typically --

9 A. -- previously, mid-afternoon to -- to 9:30.

10 Q. So how long was that shift, typically?

11 A. It could vary. Sometimes they were eight hours.  
12 Sometimes they were five or six. They were all over the place,  
13 so I don't remember how long I was scheduled that day.

14 Q. And when you showed up on March 1st for your shift, you  
15 were in fact aware that you were also responsible for  
16 conducting the clean play on that day, correct?

17 A. Yes.

18 Q. And so as minimum when you first started that shift, you  
19 knew that at the end of the day you had to complete the Siren's  
20 Eye setup but also the clean play, correct?

21 A. When I -- could you repeat that?

22 Q. Sure. When you started your shift on March 1st, you knew  
23 that by the end of the day you had to complete the cleanup, the  
24 clean plan as well as the Siren's Eye setup, correct?

25 A. Not when I started my shift. But after I started my



1 shift, I found out I had to do that additional task of doing  
2 the Siren's Eye. But I knew when I clocked in that I had to do  
3 closing tasks as well as clean play, yes.

4 Q. Okay. And at no point in time did you tell anyone that  
5 you didn't think you would be able to complete both tasks by  
6 the end of the day, correct?

7 A. No, because I had thought I could do it. And I was wrong.

8 Q. And as a shift supervisor, it was in fact your  
9 responsibility to complete the Siren's Eye setup, right?

10 A. Yes. I was in charge of it. But it would be assigned to  
11 different people depending on when was needed.

12 Q. But on March 1st, it was your responsibility to complete  
13 it, and you didn't complete it, correct?

14 A. Yes.

15 Q. You testified on direct that not a single person in  
16 management ever spoke to you about being late until you  
17 received your corrective action forms.

18 A. I don't remember anyone speaking to me.

19 Q. Okay. But it's possible that you had been spoken to on  
20 various times in which you were late, correct?

21 A. It is possible. But in the corrective actions I received,  
22 I don't remember anyone speaking to me.

23 Q. Your testimony is that you did not receive any  
24 communication from anyone in management about any of the time  
25 and attendance --

1 A. Informally.

2 Q. Let me finish. Until -- what does that mean, informally?

3 A. That speaking to you or speaking to me through just  
4 talking to me, mentioning it during a shift. No one mentioned  
5 it was an issues, or I don't remember anyone mentioning it was  
6 an issue.

7 Q. Well, it's either someone spoke to you about it, or didn't  
8 speak to you about it. Which one is it?

9 A. I don't remember anyone speaking to me about it being an  
10 issue that didn't come with a written -- written statement.

11 Q. Just so I'm clear, is it your testimony that a member of  
12 management did speak to you about your tardiness, or did not  
13 speak to you about your tardiness up until the fact that you  
14 received your corrective action form?

15 A. My testimony is I don't believe that anyone -- sorry. My  
16 testimony -- sorry. I don't remember if anyone -- sorry.  
17 Could you repeat the question, please?

18 Q. Sure. We've shown that you had a history of being late to  
19 work over the time that you worked at Starbucks, correct?

20 A. Yes.

21 Q. Is it your testimony that not a single member of  
22 management spoke to you before the issuance of a corrective  
23 action form about your tardiness?

24 A. Yes. I do not recall anyone speaking to me about being --  
25 I do not remember speaking -- someone speaking to me about

1 being tardy before the instances that I was given on the  
2 corrective action form, on the final written warning I  
3 received, the other written warning I received, and my date of  
4 separation.

5 Q. And just so I'm clear, your testimony is that the only  
6 time that anyone ever spoke to you about your violations of the  
7 time and attendance policies was when you were issued  
8 corrective action forms?

9 A. Yes.

10 Q. Throughout the entirety of your employment?

11 A. Not the entirety of my employment, but the times after we  
12 started to unionize, or I was in support of the union.

13 Q. That's convenient.

14 MR. GOODE: Objection. Move to strike --

15 MR. BALSAM: I'll withdraw.

16 MR. GOODE: -- from the record.

17 MR. BALSAM: I'll withdraw that.

18 JUDGE RINGLER: Sustained. We'll strike that.

19 MR. BALSAM: I said I withdrew it.

20 BY MR. BALSAM:

21 Q. Now you were talking about your store manager, Kae Kifner.  
22 Do you recall that testimony?

23 A. Yes.

24 Q. And you said Kae was your store manager when you were  
25 separated, correct?

1 A. Yes.

2 Q. And I believe you testified that there were days on which  
3 Kae was scheduled to provide coverage, but that she would  
4 always be late, correct?

5 A. Not always, but occasionally.

6 Q. Okay. How often was Kae late?

7 A. I don't recall the exact amount of time. But I would say  
8 frequently enough for me and other partners to notice.

9 Q. Do you know why Kae was late?

10 A. Sometimes she would say she was picking up product. But  
11 other times she would not give an answer.

12 Q. Okay. So by -- for all you know, Kae was performing  
13 duties for Starbucks outside of the store which caused her to  
14 be late to the store, correct?

15 A. Yes. But she was scheduled as coverage for certain times.  
16 So when you're scheduled as coverage, you're scheduled to be on  
17 the floor for certain times, which is at the store.

18 Q. Right. But you don't know sitting here today whether or  
19 not her district manager contacted her in advance of showing up  
20 for the shift and told her to do something else, correct?

21 A. I don't know. Yeah.

22 Q. Who prepares the schedule for the Delaware Chippewa store?

23 A. Kae does. The store manager does.

24 Q. So how do you know that Kae was late?

25 A. It would say the time that everybody was supposed to start

1 on the daily coverage report. And if she wouldn't be there at  
2 the time that it said on the schedule she was supposed to be  
3 there.

4 Q. And just to be clear, store managers and shift supervisors  
5 and baristas are not on the same level of the company, correct?

6 A. No.

7 Q. And in fact, the store manager oversees the store,  
8 correct?

9 A. Yes.

10 Q. And to your knowledge, do you know if store managers are  
11 hourly employees, or salary employees?

12 A. They're salary.

13 Q. Do you know what that means?

14 A. Yes.

15 Q. What does that mean?

16 A. That means they receive salary instead of an hourly rate.

17 Q. And to your knowledge, do you know if salaried employees  
18 have a set schedule?

19 A. They are scheduled for certain -- they're supposed to be  
20 scheduled at 40 hours. They can't go over 40, they can't go  
21 under 40. And they still are scheduled at certain times every  
22 single day for the store.

23 Q. You mentioned you participated in strikes. You said May  
24 5th, '22. What was the other day that you participated in a  
25 strike?

1 A. The strike dates were June -- July 12th through July 14th  
2 of 2022. I could be wrong on the exact dates, but those were  
3 the dates, I believe, that we did a strike, we did strikes.

4 MR. BALSAM: Nothing else, Judge.

5 JUDGE RINGLER: All right. Redirect?

6 REDIRECT EXAMINATION

7 BY MR. GOODE:

8 Q. Allegra, could you please take a look at it's RX-29. It's  
9 dated January 24th, '20.

10 A. Okay.

11 Q. I see the name David McManus (phonetic). Who was that?

12 A. That was the store manager at Delaware and Kenmore --

13 Q. Okay.

14 A. -- location.

15 Q. And remind us again when you transferred to Del Chip.

16 A. I transferred to Del Chip in March of 2020.

17 Q. Did David -- was David McManus ever the store manager at  
18 Del Chip?

19 A. No, he was not.

20 Q. Allegra, if I can have you turn to RX-30. It's dated  
21 September 14th, '21 at the top.

22 A. RX-30?

23 Q. Yeah.

24 A. Okay.

25 Q. So between March 2020 and receiving this corrective action

1 at Del Chip, did you have any other time and attendance  
2 corrective actions that were issued to you?

3 A. I do not believe so.

4 Q. Now, we -- I'm going to direct your attention to the box  
5 that says 15 instances of lateness from 8/2/21 to 9/14. Do you  
6 see that?

7 A. Yes, I do.

8 Q. So between August 2nd and the end of the month when the  
9 union campaign went public, did you receive any corrective  
10 actions for latenesses in that timeframe?

11 A. You said between August 2nd and --

12 Q. The end of August.

13 A. I did not.

14 Q. Okay. So this corrective action form was received after  
15 the union campaign went public?

16 A. Yes, it was.

17 Q. May I please have you look at the next one which is RX-31?  
18 It's dated December 16th.

19 A. Okay.

20 Q. There's -- I'm going to direct your attention to the  
21 sentence that says the time and attendance policy has been  
22 reviewed individually with partners as a store and as a  
23 district multiple times beginning October 12th. Do you see  
24 that?

25 A. Yes.

1 Q. Okay. Was that after the union campaign went public?

2 A. Yes, it was.

3 Q. And, Allegra, the last thing I need you to do is look at  
4 RX-27 which is the attendance policy that you testified about.  
5 Do you see that?

6 A. Yes.

7 Q. If you can turn to the second page, please. When is that  
8 dated?

9 A. I would say October 17th of 2021. Or the second page?

10 Q. Yeah, the second page.

11 A. Sorry. That one's dated October 11th, 2021.

12 Q. Okay. And is that after the union campaign began?

13 A. Yes, it was.

14 Q. And was that during one of these times listed in your  
15 corrective action form where it was individually reviewed with  
16 you?

17 A. Yes, it was.

18 Q. And now I'm going to have you turn to the third page of  
19 that document. When is that dated?

20 A. That one's dated on the 17th of October in 2021.

21 Q. Okay. And was that also dated during one of those times  
22 that's listed on your corrective action form as the policy  
23 being reviewed with you?

24 A. Can you repeat the question? I'm so sorry.

25 Q. Yeah. So I'll have you kind of look at both RX-27 --



1 A. Okay.

2 Q. -- and then RX-31.

3 A. RX-27. Okay.

4 Q. Okay. So again, starting with RX-31, do you see the  
5 language in there that talks about the attendance policy being  
6 reviewed beginning October 12th through November 7th?

7 A. Okay.

8 Q. Okay. So this attendance policy that you have dated  
9 October 17th, was that done during one of these times where the  
10 attendance policy was reviewed with you?

11 A. Yes.

12 MR. GOODE: Okay. Nothing further, Judge.

13 JUDGE RINGLER: All right. Anything on recross? No?

14 MR. BALSAM: One second, Judge. Nothing, Judge.

15 JUDGE RINGLER: Thank you very much for your  
16 testimony. You're excused. Please don't discuss your  
17 testimony.

18 THE WITNESS: Do I keep these here?

19 JUDGE RINGLER: You can leave them there. That'll be  
20 fine. Thank you.

21 THE WITNESS: Thank you.

22 JUDGE RINGLER: All right. All right. So who do we  
23 have next?

24 MR. GOODE: Judge, I'm sorry. We have marked up  
25 copies of the ALJD.

1 JUDGE RINGLER: All right.

2 MR. GOODE: That involved -- that we believe  
3 highlight disciplinary and attendance evidence at Del Chip that  
4 we believe is relevant to this witness' testimony, among other  
5 things, Judge.

6 MR. BALSAM: We object, Judge.

7 JUDGE RINGLER: Understood. All right. So we're  
8 going to put --

9 THE WITNESS: I'm good to go?

10 JUDGE RINGLER: I do have a question on GC-81. Is  
11 this witness subject to discipline that's covered in GC --

12 MR. GOODE: No.

13 JUDGE RINGLER: -- 81? No?

14 MR. GOODE: No.

15 JUDGE RINGLER: Okay. Okay. That was my only  
16 question I had for that. So I'm going to reject GC-81. I'll  
17 put it in the rejected exhibit folder. And you going to grab  
18 your next witness?

19 MR. GOODE: Yes.

20 JUDGE RINGLER: Go off the record for just a minute.  
21 We can go off the record for a ten-minute break.

22 MR. GOODE: Ten minutes? Okay.

23 JUDGE RINGLER: Have your witness in ten minutes.  
24 That will be fine.

25 (Brief recess at 11:22 a.m./Reconvened at 11:32 a.m.)

1 JUDGE RINGLER: Okay. We're back on. So first and  
2 foremost, state your name for the record and then spell it for  
3 us first.

4 MR. MAUCHE: Sure, yeah. My name is Connor Mauche.  
5 It is spelled C-O-N-N-O-R, last name Mauche, M-A-U-C-H-E.

6 JUDGE RINGLER: All right. Please raise your right  
7 hand.  
8 Whereupon,

9 CONNOR MAUCHE,  
10 was called as a witness having been duly sworn, was examined  
11 and testified as follows:

12 JUDGE RINGLER: All right. And, Counsel, what  
13 complaint paragraphs is Mr. Mauche going to testify about?

14 MR. GOODE: NG, I, J.

15 JUDGE RINGLER: What was the number before that?

16 MR. GOODE: N. Nine, Judge.

17 JUDGE RINGLER: Nine. Okay. So nine, all right.

18 MR. GOODE: I'm not used to having -- I'm sorry,  
19 Judge.

20 JUDGE RINGLER: That's fine. That's fine. 9G?

21 MR. GOODE: 9G, 9I, 9J, 11I and 11J, Judge.

22 JUDGE RINGLER: 11I and 11J. All right. Good deal.  
23 Your witness. I didn't write down the E. There's an E at the  
24 end of your last name.

25 THE WITNESS: Yes.

1 JUDGE RINGLER: Correct? Okay. All right.

2 DIRECT EXAMINATION

3 BY MR. GOODE:

4 Q. Connor, have you worked for Starbucks?

5 A. Yes.

6 Q. Approximately when did you first start working for  
7 Starbucks?

8 A. Hire date was September 30th -- 30th, 2021.

9 Q. And what store were you first hired at?

10 A. Sheridan Bailey.

11 Q. And how long did you work at Sheridan and Bailey?

12 A. Probably not more than four months, not including that I  
13 had trained at a different location.

14 Q. Okay. And if you could, if you could just keep your voice  
15 just slightly elevated --

16 A. Oh, yeah.

17 Q. -- so we can all hear it. So you worked at Sheridan  
18 Bailey you said for approximately four months?

19 A. Yeah, about that.

20 Q. And did you transfer to a different store at some point?

21 A. I transferred early June to Delaware Chippewa.

22 Q. And just to be clear, Delaware and Chippewa, does that  
23 store have -- does it go by a different name?

24 A. I would call it Del Chip.

25 Q. Del Chip.

1 A. Yeah.

2 Q. Okay. And did you work at Del Chip until you were  
3 discharged?

4 A. Yes. Just there.

5 Q. And what position did you hold for Starbucks?

6 A. Partner, barista.

7 Q. Connor, did you -- were you involved with the union  
8 campaign?

9 A. Yeah.

10 Q. From --

11 A. I had known a Starbucks worker who was supporting the  
12 union before I was hired. When I was hired, I also supported  
13 the union.

14 Q. Okay. And how did you -- did you show that support at  
15 work?

16 A. Yeah. I wore a pin. I would talk to other coworkers  
17 about it.

18 Q. What pin did you wear?

19 MR. BALSAM: Judge, I still can't hear the witness.

20 JUDGE RINGLER: Can you speak up a little bit?

21 THE WITNESS: Yeah.

22 JUDGE RINGLER: The question was -- do you want to go  
23 to through the union activity questions again --

24 MR. GOODE: Sure.

25 JUDGE RINGLER: -- to make sure --

1 MR. GOODE: Sure.

2 JUDGE RINGLER: -- they're clear?

3 MR. GOODE: Yeah.

4 JUDGE RINGLER: Okay. Go ahead.

5 BY MR. GOODE:

6 Q. So can you explain how you showed support for the union?

7 A. I would talk to coworkers about the union. I would wear  
8 the pin, a couple different ones. I would wear Starbucks  
9 attire for the Workers United union.

10 Q. Okay. And can you describe the pins that you would wear?

11 A. Yeah. There was one fist with the circle with the rainbow  
12 flag around it. Or there was the green one, those two mostly.

13 Q. Okay. How often would you wear those pins?

14 A. All the time except I think when I was first hired I  
15 didn't wear it the first week I was there.

16 Q. Okay. So did you wear that -- those pins at Sheridan and  
17 Bailey?

18 A. Yes.

19 Q. Did you continue to wear them once you got to Del Chip?

20 A. Yeah, indefinitely.

21 Q. At some point did Del Chip become a unionized store?

22 A. I think it was in April of 2021.

23 Q. ok

24 A. Or 2022, that is. Yeah.

25 Q. Now from that point forward, were there any points of

1 contact at Del Chip for the union?

2 A. At Del Chip, there had been some people who had left that  
3 had previously been contacts. By the time -- or before my  
4 release, I was -- I myself and Joe Andreas (phonetic) were the  
5 main points of contact.

6 Q. Okay. Did you participate in any strikes, Connor?

7 A. Yeah. The first strike, I wasn't at Del Chip at the time.  
8 I was still at Sheridan Bailey, which I think was sometime in  
9 April. And then there was two after during that summer.

10 Q. And are we in the year 2020 at this point?

11 A. '22.

12 Q. I'm sorry, 2022?

13 A. Yes.

14 Q. Okay. Can you estimate how many strikes you participated  
15 in?

16 A. More than eight.

17 Q. Okay.

18 A. Between eight and 16 I would say. I also went to ones in  
19 the Sheridan Bailey after I had left when they went on strike.  
20 Depew I was present for, Angel's fire (phonetic), I think.  
21 Yeah.

22 Q. Okay. I'm having you look at what's been marked for  
23 purposes of identification as GC Exhibit 2. 82. Good Lord,  
24 sorry.

25 (General Counsel's Exhibit 82 identified.)

1 Q. Please take a look at this document. Do you recognize  
2 this document?

3 A. Yeah.

4 Q. What is it?

5 A. It was a documented coaching that occurred at the store  
6 August 25th.

7 Q. And who gave this to you?

8 A. Kae, the manager.

9 Q. Okay. Do you know Kae's last name?

10 A. I think it's Kifner.

11 Q. Okay. And did you sign this document?

12 A. No. I just wrote in the comment section.

13 MR. GOODE: Okay. I move for the admission of GC-82,  
14 Judge.

15 JUDGE RINGLER: Any objection to GC-82?

16 MR. BALSAM: No. We've produced it.

17 JUDGE RINGLER: All right. Admitted.

18 (General Counsel's Exhibit 82 admitted into evidence)

19 BY MR. GOODE:

20 Q. Connor, if you look at the four dates listed in the  
21 documented coaching, do you have any reason to dispute that you  
22 were late on those days?

23 A. Not that I recall, no.

24 Q. Okay. Connor, prior to being issued this, was the union  
25 notified that the employer intended to issue this document?



1 A. No. Not to my knowledge.

2 Q. Was the union given an opportunity to bargain over this  
3 discipline?

4 A. No.

5 MR. BALSAM: Objection. Foundation. This witness  
6 has no idea whether or not the union was notified in advance of  
7 the separation.

8 MR. BALSAM: He testified that he was a point of  
9 contact for the union at the store, Judge.

10 MR. GOODE: But it's his own discipline.

11 JUDGE RINGLER: I'll overrule. How do you know that  
12 the union didn't bargain and was not notified?

13 THE WITNESS: Well, we had no bargaining dates and no  
14 bargaining sessions that had taken place. And even up until my  
15 firing, I wasn't aware of any bargaining going on with our  
16 store specifically.

17 BY MR. GOODE:

18 Q. Connor, I'm showing you what has been marked for purposes  
19 of identification as GC Exhibit 84.

20 (General Counsel's Exhibit 84 identified.)

21 Q. Can you take a look at this document?

22 A. Uh-huh.

23 Q. Do you recognize this document?

24 A. Yeah.

25 Q. And what is this?

1 A. This was another documented coaching, or final written  
2 warning that was served in September. Or, no, October 3rd.

3 Q. And who gave this document to you?

4 A. Kae, along with she was accompanied by another manager  
5 which I think was the (indiscernible)'s store.

6 Q. Okay. Is that potentially that witness' signature on the  
7 bottom of the page?

8 A. I think so.

9 Q. Okay. And did you sign this document?

10 A. No. I refused at the time.

11 MR. GOODE: I move for the admission of GC-84, Judge.

12 MR. BALSAM: No objection.

13 JUDGE RINGLER: All right. We'll admit 84.

14 (General Counsel's Exhibit 84 admitted into evidence)

15 BY MR. GOODE:

16 Q. Connor, I'm going to direct your attention to the date of  
17 September 8th. Do you see that?

18 A. Yeah.

19 Q. Okay. Do you recall that day?

20 A. I believe I had texted the supervisor but had not texted  
21 the manager.

22 Q. You're going to have to speak up just a little bit.

23 A. Yeah, I'm sorry. Sorry. So I believe that I had talked  
24 to the supervisor, but had not talked to the manager at the  
25 time.

1 Q. Okay. And who was that supervisor? Do you recall?

2 A. I believe it was Melanie Patrone (phonetic).

3 Q. Okay. And when you say you texted her, what did you text  
4 her?

5 A. That I wasn't going to be available that day.

6 Q. Okay.

7 JUDGE RINGLER: So what date was this?

8 THE WITNESS: The 8th of September.

9 JUDGE RINGLER: Okay. What was Melanie Patrone's  
10 title?

11 THE WITNESS: She was the shift supervisor.

12 JUDGE RINGLER: Okay.

13 BY MR. GOODE:

14 Q. I'm showing you what's been marked for purposes of  
15 identification as GC Exhibit 83.

16 (General Counsel's Exhibit 83 identified)

17 Q. Do you recognize this document?

18 A. Yeah. This is the separation notice.

19 Q. And who gave you this document?

20 A. Kae and the other manager. Didn't hand it to me. I think  
21 I took it off the table on my way out.

22 Q. Okay. Did you sign this document.

23 A. No.

24 MR. GOODE: Okay. Move for the admission of GC-83,  
25 Judge.

1 MR. BALSAM: No objection.

2 JUDGE RINGLER: Any objection? Okay.

3 MR. BALSAM: No objection.

4 JUDGE RINGLER: We'll admit 83.

5 (General Counsel's Exhibit 83 admitted into evidence)

6 BY MR. GOODE:

7 Q. Connor, I'm going to direct your attention to the bullet  
8 point listed October 13th. Do you see that?

9 A. Oh, yeah. Yeah.

10 Q. Okay. Do you recall being late that day?

11 A. Yeah. I do recall that.

12 Q. Okay. What happened that day?

13 MR. BALSAM: Objection. Relevance.

14 JUDGE RINGLER: I'll allow it. Go ahead.

15 THE WITNESS: I think I was, or I had woken up late  
16 that day. And I called Melanie at that point.

17 BY MR. GOODE:

18 Q. Okay. And what transpired between you and Melanie?

19 A. I had felt sick from -- or just queasy in general, and  
20 that I wasn't going to come in. She said if she could, if I  
21 could make it essentially, at any time during that shift, it  
22 would be appreciated. So I came in sometime three hours later.

23 Q. Okay. And when you called Melanie, was Melanie at the  
24 store?

25 A. Yeah.

1 Q. Connor, do you know a person named Allegra Anastasi?

2 A. Yeah. I worked with her at Del Chip.

3 Q. Okay. Are you aware, at some point did you become aware  
4 that Allegra had been terminated?

5 A. Yeah. I was aware the morning of when it happened.

6 Q. Okay. To your knowledge, did the employer provide the  
7 union with notice prior to terminating Allegra?

8 A. Nothing that I was aware of. No.

9 Q. And to your knowledge, did the employer give the union an  
10 opportunity to bargain prior to discharging Allegra?

11 A. No. I don't think there was any conversation.

12 MR. GOODE: I have nothing further, Judge.

13 JUDGE RINGLER: Okay. I'm assuming we've got a  
14 Jencks statement?

15 MR. GOODE: First affidavit is four and a half pages.  
16 Second one is four and a half. So nine to ten pages, Judge.

17 JUDGE RINGLER: All right. Let's see how long a  
18 break we'll take for that. 12:05, does that work?

19 MR. BALSAM: I'm sorry, Judge.

20 JUDGE RINGLER: 12:05, does that work?

21 MR. BALSAM: Yeah, that's fine.

22 JUDGE RINGLER: All right. So we'll reconvene at  
23 12:05 and then we'll continue the cross then. Until then, feel  
24 free to stretch your legs. Don't discuss your testimony with  
25 anyone.

1 (Brief recess at 11:48 a.m./Reconvened at 12:00 p.m.)

2 JUDGE RINGLER: All right. I think we're back on.  
3 Okay. Start cross whenever you're ready.

4 CROSS EXAMINATION

5 BY MR. BALSAM:

6 Q. Good afternoon. How are you?

7 A. Good. How are you?

8 Q. Good. You testified that you started working for  
9 Starbucks on December 30th, '21, correct, and that you had  
10 started working at -- it was Sheridan Bailey the location where  
11 you started?

12 A. Not after -- well, training beforehand. Then Sheridan  
13 Bailey --

14 Q. Okay.

15 A. -- as a full time.

16 Q. But the store that you were assigned to following your  
17 training was Sheridan and Bailey, correct?

18 A. Yeah.

19 Q. And at the time that you had started working at Sheridan  
20 Bailey, that store had already been certified, correct?

21 A. I'm sorry. Say again?

22 Q. That store had already been certified?

23 A. Yes. Well, when I started was during -- when I started  
24 was during the election phase.

25 Q. Okay. Did you participate in the vote at Sheridan and

1 Bailey?

2 A. Yeah.

3 Q. You did.

4 A. I sent a ballot. Yeah.

5 Q. Okay. And just so the record is clear, when was the vote  
6 for Sheridan and Bailey?

7 A. I believe it was in December. I can't remember what date,  
8 though.

9 Q. So you started working for --

10 A. Or no, I'm sorry, January. Not December.

11 Q. Okay. January '22?

12 A. Yes.

13 Q. Okay. And then you transferred six months later to Del  
14 Chip?

15 A. Correct.

16 Q. Okay. And at the time that you had transferred to Del  
17 Chip, had that store been certified yet?

18 A. It had been in I think April of that year. Yeah.

19 Q. So it had already been certified?

20 A. Yeah.

21 Q. Okay. Prior to your transfer to Del Chip, did you receive  
22 any corrective action forms for violating Starbucks policies?

23 A. Oh, yeah. I had a -- Sheridan Bailey, I had a writeup  
24 there.

25 Q. For what?

1 A. I was late.

2 Q. So time and attendance?

3 A. Yeah.

4 Q. How many corrective action forms did you receive at  
5 Sheridan Bailey for violating the time and attendance policy?

6 A. I think two, I want to say. Just two.

7 Q. Were the corrective action forms you received while you  
8 were working at Sheridan and Bailey a written warning and a  
9 final written warning?

10 A. Documented coaching I think they were.

11 Q. Both instances? Both instances were documented coachings?

12 A. Yeah.

13 Q. Okay. And they were both for time and attendance  
14 violations?

15 A. Uh-huh.

16 Q. At the time that you started working for Starbucks, you  
17 did in fact receive a copy of the partner guide, correct?

18 A. Uh-huh.

19 Q. And in the partner guide, there is --

20 A. Do you want me to just say it?

21 MR. BALSAM: Yeah. Sorry. Just for the court  
22 reporter. Does the court reporter get it, because I think he's  
23 saying yes, but my colleague is saying he's just nodding.

24 UNIDENTIFIED SPEAKER: He said uh-huh.

25 JUDGE RINGLER: Okay. So I would ask you, instead of



1 saying uh-huh, say yes.

2 THE WITNESS: Yes.

3 JUDGE RINGLER: Thank you.

4 THE WITNESS: Okay.

5 BY MR. BALSAM:

6 Q. You received a copy of the partner guide?

7 A. Yes.

8 Q. And in the partner guide there is the time and attendance  
9 policy?

10 A. Correct.

11 Q. And when you started working at Starbucks, you were aware  
12 of the time and attendance policy?

13 A. Yes.

14 Q. And what it required of you?

15 A. Yes.

16 Q. Okay. Now, you testified about the times, some of the  
17 times in which you had reached out to the shift supervisor  
18 Melanie that you were either going to be late to work or not  
19 able to come in, correct?

20 A. Yes.

21 Q. But you're aware that notifying Melanie is not the proper  
22 procedure at Starbucks, correct?

23 A. Yes.

24 Q. And in fact, what you're required to do is contact the  
25 store manager, correct?

1 A. Correct.

2 Q. And on no occasion did you ever contact the store managers  
3 to let them know that you were going to be late and/or not  
4 coming to work, correct?

5 A. In which instance?

6 Q. When you were at Delaware and Chippewa, on the dates that  
7 you referenced that you contacted Melanie.

8 A. I think in the two I mentioned, yes.

9 Q. That you did not contact the store manager, correct?

10 A. Correct.

11 Q. And just Melanie?

12 A. Yes.

13 Q. And by virtue of contacting Melanie, you had further  
14 violated the time and attendance policy because you were  
15 supposed to contact the store manager?

16 A. Yes. And at 4:00 a.m., the manager is not always awake.  
17 Which I was the morning shift.

18 Q. You mentioned that you texted Melanie on August 23rd, '22,  
19 that you would not be available on that day. Do you remember  
20 that testimony?

21 A. Yes.

22 Q. Do you still have a copy of that text message?

23 A. I don't know if I do.

24 Q. And you're aware that even had Melanie been a store  
25 manager, texting would in fact violate the policy in time and

1 attendance, that you're not allowed to text, correct?

2 A. Correct.

3 Q. But did you anyway?

4 A. Yes.

5 MR. BALSAM: Nothing else, Judge.

6 JUDGE RINGLER: All right. Redirect?

7 MR. GOODE: Nothing, Judge.

8 JUDGE RINGLER: Okay. Thank you very much for your  
9 testimony. You're excused. Please do not discuss your  
10 testimony with anyone.

11 THE WITNESS: Got you.

12 JUDGE RINGLER: Okay. Thank you.

13 THE WITNESS: Thank you.

14 JUDGE RINGLER: You can just leave that there.  
15 Appreciate it.

16 Okay. Okay. So let's talk logistics for a moment.  
17 So how many witnesses does the GC have left?

18 MR. GOODE: I'm anticipating three, Your Honor.

19 JUDGE RINGLER: Okay. Okay. Now I know that you had  
20 mentioned, and we can go off the record for just a minute just  
21 to figure out the logistics.

22 (Brief recess at 12:11 p.m./Reconvened at 1:27 p.m.)

23 JUDGE RINGLER: Okay. We're on the record. Okay.

24 And this is --

25 MR. GOODE: I'm offering what has been marked as GC

1 Exhibit 85 through 94.

2 (General Counsel Exhibits 85 through 94 identified.)

3 MR. GOODE: They are related R case documents  
4 relevant to this complaint. They have been previously sent  
5 these to Respondent's Counsel yesterday night. I can offer --  
6 I'm going to offer them into evidence. I can describe each one  
7 of you would like, Judge.

8 JUDGE RINGLER: Yeah. If you would, that would be  
9 great.

10 MR. GOODE: Sure. So GC Exhibit 85, Your Honor, is  
11 the Sheridan and Bailey Certification of Representative which  
12 is -- I think it's Paragraph 10A of the complaint, Judge.

13 JUDGE RINGLER: Okay.

14 MR. GOODE: Do you want me to just keep going, or do  
15 you --

16 JUDGE RINGLER: Yeah. Keep going.

17 MR. GOODE: -- want me to offer them?

18 JUDGE RINGLER: Keep going.

19 MR. GOODE: Okay.

20 JUDGE RINGLER: Yeah.

21 MR. GOODE: So GC Exhibit 86 is the Genessee Street  
22 Certification of Representative, Judge, which is 10B in the  
23 complaint. GC Exhibit 87 is the Del Chip, Delaware and  
24 Chippewa Certification of Representative, which is 10G of the  
25 complaint, Your Honor.

1 GC Exhibit 88 is the Transit Commons Certification of  
2 Representative, which is 10M, as in mike, of the complaint,  
3 Your Honor. GC Exhibit 89 is the RC petition filed for the  
4 Williamsville Place facility which is related to 10J of the  
5 complaint, Your Honor.

6 GC Exhibit -- and I will say with respect to  
7 Williamsville Place, Your Honor, we do have a couple of  
8 exhibits in this list that we also believe are relevant to the  
9 unit packing allegation which is Paragraph 6A of the complaint.

10 JUDGE RINGLER: Okay. Okay.

11 MR. GOODE: So GC Exhibit 90 is the decision and  
12 direction of election for the Williamsville Place facility,  
13 which in there establishes that the voting list must be  
14 produced. GC Exhibit 91 is the Williamsville Place voter  
15 eligibility list that was produced by Starbucks following  
16 issuance of the DD and E. GC Exhibit 92 is the --

17 JUDGE RINGLER: Hold on one second. Sorry, just  
18 catching up with you. 91 relates to, one more time?

19 MR. GOODE: This is the voter list for Williamsville  
20 Place.

21 JUDGE RINGLER: Okay.

22 MR. GOODE: And I think this is also related to the  
23 Paragraph 6A of the complaint.

24 JUDGE RINGLER: Okay.

25 MR. GOODE: GC Exhibit 92 is the Williamsville Place

1 tally of ballots. GC Exhibit 93 is a challenges letter for  
2 Williamsville Place sent to the parties. Again, that's GC  
3 Exhibit 93. And then GC Exhibit 94 is the Court's decision and  
4 Certification of Representative for the Williamsville Place.

5 JUDGE RINGLER: Okay. All right. I'm assuming,  
6 Counsel, that you got these emailed to you previously, and  
7 you've --

8 MR. BALSAM: Yes.

9 JUDGE RINGLER: -- had a chance to take a look?

10 MR. BALSAM: Yes, Judge.

11 JUDGE RINGLER: Any objections?

12 MR. BALSAM: No.

13 JUDGE RINGLER: All right. So we're going to admit  
14 and take judicial notice of all of these underlying R case  
15 issues. Okay.

16 (General Counsel's Exhibits 85 through 94 admitted into  
17 evidence)

18 MR. GOODE: Thank you, Judge.

19 JUDGE RINGLER: You're welcome.

20 MS. SNELLING: Okay. And then next, Your Honor, we  
21 call Cole Graziano to the stand.

22 JUDGE RINGLER: Okay. Very good. All right. Hello.  
23 All right. So once you're settled in, if you have a water or  
24 something, you're welcome to have that up there.

25 MR. GRAZIANO: Okay. Thank you.

1 JUDGE RINGLER: No problem at all. So first and  
2 foremost, can you spell your name for the record, first and  
3 last?

4 MR. GRAZIANO: Cole, C-O-L-E, and Graziano, G-R-A-Z-  
5 I-A-N-O.

6 JUDGE RINGLER: Perfect. Please raise your right  
7 hand.  
8 Whereupon,

9 COLE GRAZIANO,  
10 was called as a witness having been duly sworn, was examined  
11 and testified as follows:

12 JUDGE RINGLER: All right. And, Counsel, what  
13 complaint paragraphs are we going to get?

14 MS. SNELLING: Yes, Your Honor. Okay. So Complaint  
15 Paragraph 6B.

16 JUDGE RINGLER: Uh-huh.

17 MS. SNELLING: Complaint Paragraph 6J.

18 JUDGE RINGLER: All right.

19 MS. SNELLING: K, L, and I.

20 JUDGE RINGLER: Okay. Let me just catch up on my  
21 working complaint I've got here, and then we'll --

22 MS. SNELLING: Oh, and I misspoke. It's 9I.

23 JUDGE RINGLER: 9I. Okay.

24 MS. SNELLING: Yes. So it's 6J, K, L, and then 9I.

25 JUDGE RINGLER: Great. Okay.

1 MS. SNELLING: And then 9J and then technically 9K.  
2 But 9J.

3 JUDGE RINGLER: Okay. Perfect. Give me just one  
4 moment.

5 (Pause)

6 JUDGE RINGLER: Okay. Go ahead.

7 DIRECT EXAMINATION

8 BY MS. SNELLING:

9 Q. Hi, Cole.

10 A. Hi.

11 Q. How are you?

12 A. Good.

13 Q. Cole, what are your pronouns?

14 A. He/him.

15 Q. Okay. And where do you currently work?

16 A. Outback Steakhouse.

17 Q. Have you ever worked for Starbucks?

18 A. Yes.

19 Q. Okay. When did you work for Starbucks?

20 A. Like, the summer of 2022 until October, I think. I don't  
21 know.

22 Q. Okay. Did you start working for them earlier than summer  
23 of 2022?

24 A. I don't know dates like that. I --

25 Q. That's okay.



1 JUDGE RINGLER: I'm assuming if the hire date and the  
2 separation date are not in controversy, you could certainly  
3 lead about --

4 MS. SNELLING: Okay.

5 JUDGE RINGLER: -- that kind of background  
6 information.

7 MS. SNELLING: Okay.

8 JUDGE RINGLER: Any issue?

9 MR. BALSAM: I have no objection with that.

10 JUDGE RINGLER: All right.

11 BY MS. SNELLING:

12 Q. Okay. Cole, did you start working for Starbucks in or  
13 around February of 2022?

14 A. Yeah.

15 Q. Okay. And when you worked for Starbucks, what store did  
16 you work at?

17 A. I trained at Main Street, and then I transferred to  
18 Transit Commons in East Amherst.

19 Q. Okay. And when you say Main Street, do you mean Main  
20 Street in Williamsville?

21 A. Yes.

22 Q. Okay. And approximately how long did you train at Main  
23 Street for?

24 A. Two to three weeks.

25 Q. Okay. And so you were at Transit Commons around March of

1 2022?

2 A. Yes.

3 Q. Okay. And what position did you hold when you worked for  
4 Starbucks?

5 A. Barista.

6 Q. And how many hours a week did you typically work?

7 A. Around 25 to 30.

8 Q. And what days did you typically work?

9 A. Monday, Wednesday, Friday, and usually one day on the  
10 weekend.

11 Q. And what shift did you typically work?

12 A. Mid to close.

13 Q. Are you familiar with the Union Workers United?

14 A. Yes.

15 Q. Okay. When did you become familiar with Workers United?

16 A. My first day at Transit Commons.

17 Q. Okay. How did you become familiar with Workers United?

18 A. It just, like, other -- my other coworkers talking to me  
19 about it and -- yeah.

20 Q. Okay. And did you ever show your support for the union  
21 while working at Starbucks?

22 A. Yes.

23 Q. Okay. How so?

24 A. I wore a union pin at some of my shifts.

25 Q. Okay. And can you describe that pin for us?

1 A. There's multiple. I had one that had a pride flag on it.  
2 I think that was the one I wore most.

3 Q. Okay. And how often would you wear that pin?

4 A. I wore it every shift until I was told to not to.

5 Q. Okay. Did you ever participate in any strikes?

6 A. Yes.

7 Q. Okay. Do you remember when those happened?

8 A. I participated in one. I just remember it was warm out.  
9 I don't know. And then I participated in another one shortly  
10 after I was fired.

11 Q. Okay. And was Transit Commons -- did Transit Commons ever  
12 unionize?

13 A. Yes.

14 Q. Okay. And prior to the unionization, did Transit Commons  
15 employees send out a letter?

16 A. Yes.

17 Q. Okay. And can you describe that letter?

18 A. It was a letter to Howard Schultz saying that we were  
19 going to organize. And I signed that.

20 Q. Okay. So, Cole, I know that you just said that you were  
21 told not to wear the union pin at one time, correct?

22 A. Yes.

23 Q. Do you remember when that happened?

24 A. Only about, like, probably my first or second week at  
25 Transit Commons I was told to take it off.

1 Q. Okay. And who told you to take it off?

2 A. Gavin Crawford (phonetic). He was the store manager.

3 Q. Okay. And where were you in the store when Gavin told you  
4 to take the pin off?

5 A. He pulled me in the back in, like, the office section and  
6 told me to take it off.

7 Q. And what did he say specifically when he told you to take  
8 the pin off?

9 A. He said, excuse me. He said we're only allowed one  
10 personal pin.

11 Q. Okay. And so were you wearing any other pins at the time?

12 A. I'm pretty sure I was wearing a Starbucks provided pronoun  
13 pin, as well as just the other union pin.

14 Q. Okay. And, okay. And so what did you do after he said  
15 that you could only wear one personal pin?

16 A. I took it off.

17 Q. Took which pin off?

18 A. Oh, the union one.

19 Q. Okay. And was anyone else around at this time?

20 A. No.

21 Q. Did there come a time when you wore the union pin again?

22 A. When we won our vote count, I started wearing it again.

23 Q. Okay. And do you -- when approximately is that?

24 A. July, I think. I don't know.

25 Q. Of 2022?

1 A. Yes.

2 Q. Okay. Okay. And while working at Starbucks, Cole, had  
3 you ever been disciplined?

4 A. Yes.

5 Q. Okay. And what discipline did you receive?

6 A. I had a written warning, a final written warning, my  
7 termination notice.

8 Q. Okay.

9 A. Yeah.

10 Q. Okay. And so let's focus on the final written warning  
11 first. So were you working the day that you received that?

12 A. Yes.

13 Q. Okay. And so when you arrived at work, what happened?

14 A. I had clocked in for my shift, and a shift supervisor told  
15 me that Gavin was going to speak with a few employees, like,  
16 for a little five-minute conversation. And then I just  
17 continued working.

18 Q. Okay. And did there come a time when Gavin spoke to you?

19 A. Yes.

20 Q. Okay.

21 A. He pulled me in the back.

22 Q. Okay. And when you say the back, what do you mean?

23 A. Oh, like the -- the office section and where we keep all,  
24 like, the stock and stuff. Yeah.

25 Q. Kind of like the extra product --

1 A. Yeah.

2 Q. -- of the store? And when Gavin pulled you into the back,  
3 what if anything did he say?

4 A. He told me that the disrespect needs to be talked about,  
5 or something along those lines.

6 Q. Okay. And what, if anything, did you say in response?

7 A. I just said what disrespect. I was just confused.

8 Q. Okay. And so what, if anything, did Gavin say next?

9 A. He motioned for me to follow him. So I did.

10 Q. Okay. And where did he lead you to?

11 A. To the patio outside.

12 Q. Okay. And what happened when you got to the patio?

13 A. There was another store manager out there, Merly, I don't  
14 know her last name. And then I was handed my final written  
15 warning.

16 Q. Okay. And so do you know what store Merly worked for?

17 A. I remember working with her at Main Street. But I think  
18 around that time she was the Elmwood manager in training I  
19 think is what I was told.

20 Q. Okay.

21 A. From Gavin.

22 Q. Okay. And so prior to Gavin giving you the final written  
23 warning, did Gavin say anything?

24 A. He --

25 MR. BALSAM: Objection. Asked and answered.

1 JUDGE RINGLER: I think it's okay. Do you recall if  
2 Gavin said anything to you?

3 THE WITNESS: Yes. So Gavin kind of was just  
4 expressing to me that he was upset that I didn't, like, respond  
5 to him when he said hi to me at a previous shift.

6 BY MS. SNELLING:

7 Q. Okay. And --

8 MR. BALSAM: Objection. Move to strike.  
9 Inconsistent from the prior testimony of this witness.

10 JUDGE RINGLER: Counsel?

11 MS. SNELLING: It's not inconsistent just because I  
12 asked for prior to Cole receiving the final written warning or  
13 Gavin giving it, I asked if Gavin had said anything. And Cole  
14 was just counting --

15 JUDGE RINGLER: Okay. I'll allow it.

16 MS. SNELLING: -- what if anything was said. Okay.

17 BY MS. SNELLING:

18 Q. Okay. And what, if anything, did you say to that, Cole?

19 A. I was just confused. I don't know. I was just like -- I  
20 don't know.

21 Q. Okay. And did Gavin mention anything more about that  
22 incident?

23 A. He said that he tried to have it be in the final written  
24 warning when he, like, went to -- I don't know. He has to have  
25 someone sign off on it, I guess. And he tried to put that in

1 there. And he said that they told him to take it out, and that  
2 he wanted to talk to me about it anyway.

3 Q. Okay. And so then when Gavin gave you your final written  
4 warning, what if anything did he say about it?

5 MR. BALSAM: Objection. Leading.

6 JUDGE RINGLER: Overruled. You can answer.

7 THE WITNESS: (No response)

8 JUDGE RINGLER: If you recall.

9 THE WITNESS: I don't. I don't.

10 BY MS. SNELLING:

11 Q. That's okay. During this meeting, did they give you a  
12 copy of the final written warning?

13 A. Yeah.

14 Q. Okay. And if I showed it to you, would you recognize it?

15 A. Yes.

16 MS. SNELLING: Okay. Your Honor, I am distributing  
17 GC Exhibit 95.

18 (General Counsel's Exhibit 95 identified)

19 JUDGE RINGLER: Okay.

20 MR. BALSAM: Judge, if it makes sense, we have a  
21 better copy rather than this.

22 JUDGE RINGLER: Yeah, why don't we do that?

23 MR. BALSAM: Do you want to substitute this out?

24 JUDGE RINGLER: Yeah. Why don't you grab yours and -  
25 - thank you for that. Appreciate that.



1 MS. SNELLING: Yeah, this is the one I think I just -  
2 -

3 MR. BALSAM: Right there. You want it pre-marked?

4 MS. SNELLING: Sure. Thank you. Sorry, Your Honor.  
5 This copy's slightly different.

6 MR. GOODE: It's different than the one that we have,  
7 Judge.

8 JUDGE RINGLER: Oh, it is? Okay. You could use  
9 yours then if you prefer.

10 MS. SNELLING: Okay.

11 JUDGE RINGLER: Thank you.

12 MS. SNELLING: Okay.

13 MR. BALSAM: I tried.

14 JUDGE RINGLER: All right. Welcome back again.

15 BY MS. SNELLING:

16 Q. Okay. Cole, do you recognize this?

17 A. Yes.

18 Q. Okay. So what is this?

19 A. My final written warning.

20 Q. Cole, in the partner -- below the partner statement, in  
21 that box, whose handwriting is that?

22 A. Mine.

23 Q. Okay. And I see some signatures at the bottom. Were  
24 those signatures made in front of you?

25 A. Yes.

1 Q. Okay. And did you sign the final written warning?

2 A. No.

3 Q. Okay. And this is what was given to you during that final  
4 written warning meeting that you had?

5 A. Yes.

6 MS. SNELLING: Okay. So I move GC Exhibit 95 into  
7 evidence.

8 JUDGE RINGLER: So I'm having, candidly, a hard time  
9 reading --

10 MS. SNELLING: Yes.

11 JUDGE RINGLER: -- 95. And I don't have a magnifying  
12 glass with me. So I might feel differently if I had one.

13 MS. SNELLING: Okay.

14 JUDGE RINGLER: You don't have a better copy of  
15 this?

16 MS. SNELLING: I tried to change the orientation, and  
17 it wasn't working. So --

18 JUDGE RINGLER: Right. Okay.

19 MS. SNELLING: I can try and send an electronic copy.

20 JUDGE RINGLER: And there's was different than this?

21 MR. GOODE: It did have --

22 MS. SNELLING: The signatures were not consistent.  
23 And then there was some writing that we hadn't seen before.

24 JUDGE RINGLER: Okay. All right. We'll add this in.  
25 But if you can reprint it and make it bigger, I'd like to

1 substitute it out, if possible.

2 MS. SNELLING: Okay.

3 JUDGE RINGLER: Okay?

4 MS. SNELLING: Yes.

5 JUDGE RINGLER: All right. I'm sorry, Counsel. Did  
6 you have an objection to this? I kind of jumped the gun a  
7 little bit.

8 MR. BALSAM: Judge, other than this is not a  
9 Starbucks record, as counsel for the General Counsel points  
10 out, it's not the version that we provided to them which is  
11 Starbucks' record. Also, it's illegible. I can barely read,  
12 if at all, the top part of it. And for those reasons, I would  
13 argue that this is not --

14 JUDGE RINGLER: Can I see your copy? I'm just  
15 curious where it's different.

16 MR. BALSAM: Yeah. I'll bring it up.

17 JUDGE RINGLER: At the end of the day, you know, I'd  
18 like to do our best to get one in that's -- so, Counsel, where  
19 is theirs different? Would you like a copy back of theirs?

20 MR. GOODE: No, I think I remember.

21 JUDGE RINGLER: You remember.

22 MR. GOODE: I mean, this has two signatures on it.

23 JUDGE RINGLER: And that's the only distinction?

24 MS. SNELLING: And then some of the writing within  
25 the text, a word is crossed out which I don't know if it makes

1 that much of a difference. But then there is, if you flip to  
2 the second page, Your Honor, there is more writing that we  
3 don't have.

4 MR. BALSAM: But, Judge, that goes to the point that  
5 this is not a complete document.

6 JUDGE RINGLER: Right. Right.

7 MR. BALSAM: I mean --

8 JUDGE RINGLER: I think what I'd rather do, because  
9 there is writing on the second page. It appears to be the same  
10 as the writing on the first page.

11 MS. SNELLING: Okay.

12 JUDGE RINGLER: So maybe you could ask our witness if  
13 that's also their writing.

14 MS. SNELLING: Okay.

15 MR. BALSAM: Right? That would deal with the second  
16 page issue. And the fact that, you know, there's one  
17 additional signature. Now is the typed part the same? It  
18 looks like it is, but I just want to make sure.

19 MS. SNELLING: I think the typed part is the same,  
20 Your Honor. I think that the thing that's really bringing me  
21 pause is the signatures because I think -- yeah, I'm just a  
22 little confused about that part of it. And I think -- and then  
23 I, you know, just slightly confusing with the timing then of  
24 creations of parts of the document, which again, might not be--  
25 --

1 JUDGE RINGLER: Right.

2 MS. SNELLING: -- you know, material. But also, it  
3 does bring me pause.

4 JUDGE RINGLER: Right. I understand. Okay. Well,  
5 let me ask our witness a question. Do you remember, I'm  
6 showing you now -- well, it's not marked.

7 MR. BALSAM: We haven't marked it yet, Judge.

8 JUDGE RINGLER: You haven't marked it yet.

9 MR. BALSAM: If you want us to mark it, we can.

10 JUDGE RINGLER: All right. I'm going to show you  
11 what we'll mark as GC-95A. I'll just do that, and see if it  
12 works that way.

13 MR. WHALEN: There's a Bates stamp on that if you  
14 want to use that, in the bottom right corner.

15 JUDGE RINGLER: Right. Right. It's fine.

16 MR. WHALEN: Okay.

17 JUDGE RINGLER: It's fine. I think we could just  
18 deal with it this way.

19 Do you recall on Page 2 writing that paragraph? I  
20 mean, is that your handwriting, for starters?

21 THE WITNESS: Yes.

22 JUDGE RINGLER: That's your handwriting?

23 THE WITNESS: I remember that.

24 JUDGE RINGLER: Do you recall writing that paragraph?

25 THE WITNESS: Yes.

1 JUDGE RINGLER: You do. Okay. All right. And you  
2 probably don't recall this. But if you do, do you recall how  
3 many people signed this form?

4 THE WITNESS: Two. Yeah, Merly and Gavin.

5 JUDGE RINGLER: So Merly signed it, as well as --

6 THE WITNESS: Yes.

7 JUDGE RINGLER: Okay. So you just have the one with  
8 the Gavin signature. I don't know. Do you folks understand  
9 what the distinction is?

10 MR. BALSAM: No.

11 JUDGE RINGLER: And then we've got 8/4/22 of one, and  
12 then 8/16/22 of the other. Well, I'm going to let you offer  
13 yours, and I'll let you guys offer yours. And we'll figure it  
14 out. I mean, I think probably the important part is in both.  
15 So you're going to offer GC-95?

16 MS. SNELLING: Yes, Your Honor. Yes.

17 JUDGE RINGLER: Any objection to 95?

18 MR. BALSAM: Again, for the reasons I stated before,  
19 it didn't seem like it's a complete document. The witness has  
20 already testified that there's a second page, which is what we  
21 -- I guess what you're using as 95A. Is that right, Judge?

22 JUDGE RINGLER: No. You're going to have to make  
23 that a respondent exhibit.

24 MR. BALSAM: Okay. That's fine. I think that's  
25 appropriate.

1 JUDGE RINGLER: Yeah.

2 MR. BALSAM: But the document that we have shown,  
3 which we believe is the accurate copy of the final written  
4 warning, that is the best evidence of what transpired, not what  
5 the counsel for the General Counsel is utilizing because again,  
6 it's not the complete document pursuant to the witness' own  
7 testimony.

8 JUDGE RINGLER: All right. I appreciate your  
9 objection for the record. I'm going to allow this in because  
10 the witness has identified this as the corrective action form  
11 that I received. But I would certainly allow this in as a  
12 Starbucks business record and then we'll --

13 MR. BALSAM: Okay.

14 JUDGE RINGLER: -- figure it out. So I'm going to  
15 allow in GC-95.

16 (General Counsel's Exhibit 95 admitted into evidence)

17 JUDGE RINGLER: And, Counsel, at this time do you  
18 want to mark yours? And just to make it really clean, we'll  
19 get it in right now so we don't overlook that. Not that you'd  
20 overlook it, but at least it's in the same spot in the record.

21 MS. SNELLING: Okay. Cole --

22 JUDGE RINGLER: Hang on one second. They're just  
23 going to mark their exhibit --

24 MS. SNELLING: Okay. Sorry.

25 JUDGE RINGLER: -- and I'm going to let that in now,

1 as well.

2 MR. BALSAM: I'll circulate that for everyone.

3 JUDGE RINGLER: And you're still invited to, if you  
4 can make a better copy of yours, to do so.

5 MS. SNELLING: Yeah. I'm talking with our field  
6 examiner about it right now, Your Honor.

7 JUDGE RINGLER: Oh, perfect. Okay.

8 MS. SNELLING: So hopefully we can get that fixed.

9 JUDGE RINGLER: All right. So we've also got  
10 Respondent Exhibit 32 which Counsel is representing is a  
11 business record I assume you retrieved from --

12 MR. BALSAM: This partner's personnel file.

13 JUDGE RINGLER: -- Cole's personnel file?

14 MR. BALSAM: Yes.

15 JUDGE RINGLER: Okay. So we'll also admit R-32.

16 (Respondent's Exhibit 32 is identified and admitted into  
17 evidence)

18 JUDGE RINGLER: It looks like it's generally the  
19 same. The part that's different is that handwritten paragraph  
20 on Page 2 which Cole has identified as being Cole's signature.  
21 So we'll allow this in, as well. So R-32 is admitted also.  
22 Thank you for your patience on that.

23 BY MS. SNELLING:

24 Q. Okay. So, Cole, focusing just Exhibit 95 for right now.

25 Okay. Just for clarification, is this a picture --



1 A. Yes.

2 Q. -- of the -- okay. And where did you take this picture?

3 A. In my car.

4 Q. Okay. And so in proximity to when you were given this  
5 document, when did you take the picture?

6 A. Right after.

7 Q. Okay. So focusing on it's the second line that says 7/28,  
8 and it ends with Cole said I hate my fucking car. Did Gavin  
9 specifically talk to you about that during the final written  
10 warning conversation?

11 A. Yeah.

12 Q. Okay. And what, if anything, did he say?

13 A. He just said you said you hate your fucking car in front  
14 of me. That's really it.

15 Q. Okay. And what, if anything, did you say in response?

16 A. I was -- I just was -- said no. I wouldn't say that.

17 Q. Okay. And what, if anything, did Gavin say in response?

18 A. He asked me -- he asked me if I wanted to sign it. I said  
19 no. And then he said, he was like are you calling me a liar,  
20 and then just started getting aggressive.

21 Q. All right. And what, if anything, did you say to that?

22 A. I said yeah, because I had not said that, or wouldn't say  
23 that.

24 Q. Okay. Okay. And what, if anything, did Gavin say in  
25 response to you?

1 A. I mean, after that, after he asked if I was lying to him,  
2 I just, he didn't really say much. He --

3 Q. Okay. Where on the patio were you sitting in relation to  
4 the front door?

5 A. Like, just right to the right of it.

6 Q. Okay. And so when people would walk into the store, could  
7 you see them?

8 A. Yes.

9 Q. Okay. During this conversation, did anyone walk into the  
10 store?

11 A. Yes.

12 Q. Okay. Who?

13 A. Michael Sabriana.

14 Q. Okay. Who's Michael Sabriana?

15 A. A fellow partner at the store.

16 Q. Okay.

17 A. Transit Commons.

18 Q. Okay. And could Gavin see, or was Gavin facing in the  
19 same direction as you?

20 A. Yeah. We both were kind of facing the same.

21 Q. Okay. And so when Michael started to walk into the store,  
22 what if anything did you say?

23 A. I asked if I could go grab him.

24 Q. Okay. And what, if anything, did Gavin say in response to  
25 that?

1 A. He pointed to my final written warning and he said this --  
2 that has nothing to do with this.

3 Q. Okay. And what, if anything, did you say in response to  
4 that?

5 A. I was like it has nothing to do with what -- and I just  
6 kept asking why, and he kept saying the same thing over.

7 Q. Okay. And after that back and forth, what if anything did  
8 you say?

9 A. I just gave up after a while of arguing with him and said  
10 whatever. And just, and then I refused to sign. And then he  
11 asked me if I wanted to write anything in the box, and I said  
12 yeah.

13 Q. Okay. And so as you stated previously, that is your  
14 handwriting in the box?

15 A. Yes.

16 Q. Okay. And during this conversation, Cole, did Gavin say  
17 something that didn't make sense in relation to the timing of  
18 you receiving this final written warning?

19 MR. BALSAM: Objection. Leading.

20 JUDGE RINGLER: Why don't you ask a less leading  
21 question?

22 MS. SNELLING: Okay.

23 BY MS. SNELLING:

24 Q. What, if anything, did Gavin say in relation to the, I  
25 guess the timing of this final written warning?

1 MR. BALSAM: Objection. Leading.

2 JUDGE RINGLER: That's kind of the same question.

3 MS. SNELLING: Okay.

4 JUDGE RINGLER: Maybe what if anything else did Gavin  
5 say?

6 BY MS. SNELLING:

7 Q. Okay. What if anything else did Gavin say?

8 A. He said that this has been in the works for months,  
9 talking about my final written warning.

10 JUDGE RINGLER: And this was out on the patio?

11 THE WITNESS: Yes.

12 BY MS. SNELLING:

13 Q. Okay. And so after you wrote something on the final  
14 written warning, what if anything happened?

15 A. Gavin just asked me if I wanted to go home. I ended up  
16 going home. And then I walked into the store to grab my stuff,  
17 and spoke with a few people, and then left.

18 Q. Okay. And who were the people that you spoke with?

19 A. Michael Sabriana and Eric Fisher (phonetic).

20 Q. Okay. So, Cole, on --

21 MS. SNELLING: Hold on one second, Your Honor. I  
22 apologize.

23 BY MS. SNELLING:

24 Q. Cole, you mentioned also that you previously received a  
25 documented coaching, or you received another --

1 A. Yeah.

2 Q. -- discipline. Do you recall what that was for?

3 A. It was for wearing a beanie.

4 Q. Okay. And when was that given to you in relation to this  
5 final written warning?

6 A. Before.

7 Q. Okay. And who gave you that discipline?

8 A. Gavin.

9 Q. Okay. And what level of discipline was that?

10 A. The, like, the first level.

11 Q. So a documented coaching?

12 A. Yeah. Oh, yeah. Yeah. Sorry.

13 Q. That's okay. Okay. And what specifically was it about  
14 the beanie that you received that documented coaching for?

15 A. We couldn't wear beanies with any logo that were bigger  
16 than a quarter. And mine was bigger than a quarter.

17 Q. Okay. And after that documented coaching about that,  
18 about wearing the beanie, were you able to wear beanies after?

19 A. Yes.

20 Q. And so, Cole, you no longer work for Starbucks, correct?

21 A. Yes.

22 Q. Why not?

23 A. I was fired.

24 Q. Okay. Do you remember when you were terminated?

25 A. October 7th.

1 Q. Okay. Of 2022?

2 A. Yes.

3 Q. And were you working on October 7th of 2022?

4 A. Yes.

5 Q. Okay. What happened when you arrived that day?

6 A. Michael Sabriana was in the parking lot. I got there  
7 early, and we just talked in the parking lot for a little bit  
8 before I clocked in.

9 Q. Okay. And what did you speak about?

10 A. How he was fired.

11 Q. Okay. And so after speaking with Michael, did you go into  
12 the store?

13 A. Yes.

14 Q. Okay. And when you went into the store, what happened?

15 A. I was told to go home and change because my shirt was out  
16 of dress code.

17 Q. Okay. And why was your shirt out of dress code?

18 A. It was sage green. I was looking at the wrong dress code  
19 form.

20 Q. Okay. Which dress code form were you looking at?

21 A. I was looking at the one that was for non-unionized  
22 stores. And I -- yeah.

23 Q. And, okay. So did you go home to change?

24 A. Yes.

25 Q. Okay. And how much later did you return back to work?

1 A. I drove 25 minutes home, took five minutes to change, and  
2 then 25 minutes back.

3 Q. Okay. And so what happened when you came back to work, if  
4 anything?

5 A. I clocked in and was working normally for a little bit.  
6 And then I was pulled aside.

7 Q. Okay. Who were you pulled aside by?

8 A. Gavin, as well as Scott. I don't know his last name. I'm  
9 pretty sure he's a manager at Main Street.

10 Q. Okay. And where did they pull you aside to?

11 A. Just the table in the lobby.

12 Q. Okay.

13 A. Or the lounge.

14 Q. And was anyone else present besides Gavin and Scott?

15 A. At the -- no, not at the conversation.

16 Q. Okay. When they -- when you sat down at that table that  
17 they pulled you over to, what if anything happened?

18 A. They just handed me my termination notice. And it was  
19 really quick. Gavin just listed off the three reasons as to  
20 why. And, yeah, that's --

21 Q. Okay. And what if anything did you say in response?

22 A. I mean, when he handed me the sheet, I said let's get this  
23 over with because I already knew it was coming. I just said  
24 yeah, okay, whatever. And then he asked me for my apron, my  
25 pens that I had on me, and I gave them and then left.

1 Q. Okay. And were you given a copy of the notice of  
2 separation?

3 A. Yes.

4 Q. Okay. And if I showed you it, would you recognize it?

5 A. Yes.

6 MS. SNELLING: Okay. And then -- okay. So, Your  
7 Honor, I tried to enter this earlier as GC Exhibit 30. So it's  
8 still marked as GC Exhibit 30. And then so I'm just renewing  
9 that.

10 (General Counsel's Exhibit 30 identified.)

11 JUDGE RINGLER: Okay. You've got a fresh copy, as  
12 well? Just refresh us, did you withdraw it at the time?

13 MS. SNELLING: I believe so.

14 JUDGE RINGLER: Okay. So it's not in rejected  
15 exhibits?

16 MS. SNELLING: No.

17 JUDGE RINGLER: Okay.

18 MS. SNELLING: Yes. Just a renewal.

19 BY MS. SNELLING:

20 Q. Okay. Cole, do you recognize this document?

21 A. Yes.

22 Q. Okay. And what is this?

23 A. My notice of separation.

24 Q. Okay. And did you sign a copy of the notice of  
25 separation?



1 A. No.

2 Q. Okay. And the signatures on the page, did those people  
3 sign that, sign this in front of you?

4 A. Yes.

5 Q. Okay. And is this a copy of it, or is this a picture of  
6 it?

7 A. It was a picture of it.

8 Q. Okay. And so is this a true and accurate picture of your  
9 notice of separation?

10 A. Yes.

11 Q. To the best of your knowledge.

12 A. Yes.

13 MS. SNELLING: Okay. So I move for GC Exhibit 30 to  
14 go into evidence.

15 JUDGE RINGLER: Any objection to GC-30?

16 MR. BALSAM: One second, Judge.

17 JUDGE RINGLER: All right.

18 MR. BALSAM: No objection except to note that the  
19 records Starbucks has has a different --

20 JUDGE RINGLER: I'll certainly allow you folks to put  
21 that in if you'd like to. All right. So GC-30's admitted.

22 (General Counsel's Exhibit 30 admitted into evidence)

23 JUDGE RINGLER: And we'll continue.

24 BY MS. SNELLING:

25 Q. Okay. And looking at this document, Cole, in the second

1 paragraph it says two previous corrections. And the first it  
2 listed documented coaching. Is that what we were just talking  
3 about previously?

4 A. Yes.

5 Q. Okay. Okay. And so now we'll focus on the bullet points.  
6 So it says on August 26th, you overslept, causing you to be  
7 late. Do you remember that --

8 A. Yes.

9 Q. -- day? Okay. And so why were you late to work that day?

10 MR. BALSAM: Objection. Relevance.

11 JUDGE RINGLER: Counsel?

12 MS. SNELLING: I mean, I think it's relevant to walk  
13 through I guess why, and then also what happened subsequently  
14 when Cole spoke with his manager about this.

15 JUDGE RINGLER: Okay. I'll allow it. Go ahead.

16 THE WITNESS: My phone died, and my alarm didn't go  
17 off. Right when -- yeah.

18 BY MS. SNELLING:

19 Q. Okay. And so when you arrived for your shifts that day,  
20 did you speak with anyone?

21 A. Yeah. A shift supervisor.

22 Q. Okay. And did you ever speak to a manager about this?

23 A. I had a conversation a few days later with Gavin about it.  
24 But it was just me apologizing for being late.

25 Q. Okay. And what if anything did Gavin say during that

1 conversation?

2 A. He said it's fine, and that it was I had never been late  
3 before. So --

4 Q. Okay. And after you spoke with Gavin a couple days later,  
5 did you speak with him about it again?

6 A. No.

7 Q. Okay. And so in between speaking with Gavin and October  
8 7th, did you speak with any managers about you being late that  
9 day?

10 A. No.

11 Q. And you being late to the store, did that stop the store  
12 from opening?

13 A. No.

14 Q. So then we'll focus on the second bullet. It says on  
15 September 4th you were a no call-no show. Do you recall this?

16 A. I do not.

17 Q. Okay. Prior to this instance on September 4th, did you  
18 ever -- were you ever working when another partner was a no  
19 call-no show?

20 A. A few times, yes.

21 Q. Okay. And what would happen when another partner was a no  
22 call-no show?

23 A. The shift supervisor or manager on shift would call  
24 multiple times to see what was going on.

25 Q. Okay. And so on September 4th, do you remember receiving

1 any phone calls from the shift supervisor that day?

2 A. No.

3 Q. And between September 4th and October 2nd, who if anyone  
4 from management spoke to you about being a no call-no show?

5 MR. BALSAM: Objection. Leading.

6 JUDGE RINGLER: I'll allow it. Go ahead.

7 THE WITNESS: No one.

8 BY MS. SNELLING:

9 Q. Okay. And, Cole, would there be any record of you not  
10 showing up to work on that day?

11 MR. BALSAM: Objection. Foundation. This witness  
12 doesn't -- I don't know if that's the case.

13 JUDGE RINGLER: If you know. And then if you have an  
14 answer, explain how you know that.

15 THE WITNESS: Yeah. Yeah. Just from previous, like  
16 you said, or like I said, I was on shift multiple times when  
17 people have no call-no showed. They would write it on a DCR  
18 which displayed everyone who was working that day, what time.  
19 And if they were a no call-no show, they'd write next to their  
20 name no call-no show, or cross their name out.

21 Q. Okay. And is there anyone in particular that you can  
22 recall was a no call-no show?

23 A. Yes.

24 Q. Okay. Who?

25 A. Anna Krowalski (phonetic).

1 Q. Okay. And to the best of your knowledge, after Anna's no  
2 call-no show, was she terminated?

3 A. No.

4 Q. Okay. And to the best of your knowledge, was Anna a union  
5 supporter?

6 A. No.

7 Q. Okay. And how do you know that?

8 A. She was very outspoken about it. Just, yeah.

9 Q. Okay. And then the last bullet there, Cole. On September  
10 16th, it says that you arrived to work wearing a purple beanie.  
11 Do you remember that instance?

12 A. Yes.

13 Q. Okay. And so what happened when you went into work on  
14 September 16th?

15 A. I clocked in as normal. I was on a support role that day.  
16 Yeah.

17 Q. Okay. And what is a support role?

18 A. It's just like restocking and making coffee. Doing that.

19 Q. Okay. And so at any point did your manager come in that  
20 day?

21 A. Yeah. Gavin did come in.

22 Q. Okay. And so after Gavin came into work, what if anything  
23 happened?

24 A. I took his order like normal. We were friendly that day  
25 because we had a really good shift with each other like a week

1 prior. And then he went in the back after I took his order.  
2 And I didn't follow him. I was told to go grab something in  
3 the back shortly after he walked into the back. And when I  
4 went to grab the pastry items I was going to grab, I overheard  
5 Gavin talking about me.

6 Q. Okay. And do you know who he was talking to?

7 A. Leann Jacobs (phonetic) who is a shift supervisor.

8 Q. Okay. And what if anything did you hear Gavin say?

9 A. He said I wasn't wearing a nametag, and that my beanie was  
10 out of dress code.

11 Q. Okay. And so after you overheard him say that, what if  
12 anything did you do?

13 A. I totally forgotten I didn't have a nametag on, so I just  
14 took it out of my apron pocket and put it on. Yeah.

15 Q. Okay. And so after you put your nametag on, what did you  
16 do?

17 A. I just went back up to work like normal. And then Gavin  
18 came out of the back to talk to me.

19 Q. Okay. And so when Gavin talked to you, what did he say?

20 A. He was talking about, he said if his boss comes in, then  
21 it's over for him. And at that moment I felt bad because I was  
22 out of dress code, and I didn't want to put his job in  
23 jeopardy. So I was just giving him reasons as to how I could,  
24 like, I don't know, how I could fix me being out of dress code.

25 Q. Okay. And so what were some of those ideas that you told

1 Gavin?

2 Q. I said I could go home and change. I said I could go to  
3 the store and get a different beanie. I said -- I asked him if  
4 he had a -- because I know some people wore Starbucks hats. I  
5 asked if he could -- if he had a Starbucks hat that I could  
6 wear. And I kept apologizing.

7 Q. Okay. And what if anything did Gavin say in response to  
8 you?

9 A. After I said that, he got really aggressive and he just  
10 said I'm -- he said something like I'm over this or I'm done  
11 with this, and just started calling me names.

12 Q. Okay. And what names was he calling you?

13 A. He said I'm the most selfish person he's ever met. He  
14 called me insubordinate, childish, a lot of other things that I  
15 tend to block out.

16 Q. Okay. And where was he saying this?

17 A. Right, like, where the floor, like the front end where  
18 everyone is in the lobby meets the back. So, and the door was  
19 wide open. So the whole lobby and all of my other partners  
20 heard the whole thing.

21 Q. And while he was saying all of these things to you, what  
22 if anything did you say in response?

23 A. I kept asking him if we could go in the back and have a  
24 conversation about it because I was just embarrassed. And,  
25 yeah.

1 Q. Okay. Okay. And so how did this conversation end?

2 A. He pointed to the door and he told me to get out.

3 Q. Okay. And so after he pointed at the door and said get  
4 out, what else if anything did he say?

5 A. Nothing. He walked away.

6 Q. Okay. And so did you then leave the store?

7 A. Yes.

8 Q. Okay. And after Gavin pointed to the door and said get  
9 out, what if anything did you say about coming back to the  
10 store?

11 A. Nothing. I just walked out.

12 Q. Okay. And what happened after you left?

13 A. I just went in my car, just started crying. I was pretty  
14 upset.

15 Q. Okay. Did anyone come out to speak to you while you were  
16 in your car?

17 A. Yeah, Leann Jacobs, the shift supervisor.

18 Q. ok

19 A. Yeah.

20 Q. And what if anything did Leann say about you needing to  
21 come back to the store?

22 MR. BALSAM: Objection. Hearsay.

23 JUDGE RINGLER: Not being offered for the truth, or  
24 being offered for the truth? Which one?

25 MS. SNELLING: I can rephrase the question, Your



1 Honor.

2 JUDGE RINGLER: Sure.

3 BY MS. SNELLING:

4 Q. Okay. Did Leann tell you to come back to the store?

5 MR. BALSAM: Objection. Leading.

6 JUDGE RINGLER: Sustained.

7 BY MS. SNELLING:

8 Q. Okay. Did anyone tell you to come back to the store after  
9 this?

10 A. No.

11 Q. Okay. And so after this incident on September 16th with  
12 Gavin, did you speak with him again about wearing beanies at  
13 work?

14 A. I called him, or I called the store, like, a week after  
15 just to ask if there was a Starbucks hat there that I could  
16 use.

17 Q. Okay. And when did you do this in relation to your shift?

18 A. Like, probably an hour and a half, two hours before my  
19 shift.

20 Q. Okay. And so when you called the store, who did you speak  
21 with?

22 A. Gavin.

23 Q. Okay. And what if anything did he say when you asked  
24 that?

25 A. He didn't really reply. He just told me that I can't be

1 late to my shift, or call off.

2 Q. Okay. And so between your receiving the notice of  
3 separation on October 7th and September 16th incident, did  
4 Gavin speak to you about this September 16th incident?

5 A. No.

6 Q. Okay. And, Cole, had you worn the purple beanie to work  
7 prior to September 16th?

8 A. Yes.

9 Q. Okay. Approximately how many times?

10 A. Probably only one or two times.

11 Q. Okay. And was a manager present when you wore the purple  
12 beanie?

13 A. I'm not sure. The shift supervisor definitely was,  
14 though.

15 Q. Okay. And why do you mention that a shift supervisor was  
16 present?

17 A. Because our shift supervisors were always really strict  
18 about dress code.

19 MS. SNELLING: Okay. And -- may I just have one  
20 minute, Your Honor?

21 JUDGE RINGLER: Uh-huh.

22 (Pause)

23 BY MS. SNELLING:

24 Q. Cole, looking at the third bullet on the notice of  
25 separation, do you -- what if anything within that third bullet

1 do you disagree with?

2 MR. BALSAM: Objection. Leading.

3 JUDGE RINGLER: If anything is in there. So  
4 presumably, if you don't disagree with something, you'll tell  
5 us. I'll allow the question.

6 THE WITNESS: I wasn't sent home to change.

7 MS. SNELLING: Okay.

8 THE WITNESS: And I -- yeah.

9 MS. SNELLING: Okay. No further questions, Your  
10 Honor.

11 JUDGE RINGLER: Okay. Counsel?

12 MR. BALSAM: Nothing.

13 JUDGE RINGLER: Okay. All right. What do we have in  
14 terms of the affidavit?

15 MS. SNELLING: We have one six-page affidavit and the  
16 second affidavit is around seven pages.

17 JUDGE RINGLER: All right. So --

18 MS. SNELLING: So 13 pages, about.

19 JUDGE RINGLER: We've got 2:30. So we'll reconvene  
20 at 2:50.

21 MR. BALSAM: Thank you, Judge.

22 JUDGE RINGLER: We'll go off the record until that  
23 point. Feel free to stretch your legs, whatever. Just don't  
24 discuss your testimony.

25 (Brief recess at 2:28 p.m./Reconvened at 2:49 p.m.)

1 JUDGE RINGLER: All right. Perfect. We're back on.  
2 So we have a substitute GC-95?

3 MS. SNELLING: Yes, Your Honor. I distributed it.  
4 Respondent, did you get the new copy of GC-95, or did I forget?

5 MR. BALSAM: I only have that copy.

6 MS. SNELLING: This copy?

7 MR. BALSAM: You mean this copy?

8 MS. SNELLING: Yes, the new. Yes. That's the newer  
9 copy that I switched the orientation for.

10 MR. BALSAM: This is worse.

11 JUDGE RINGLER: No it's not.

12 MR. BALSAM: I can't even see the top left corner of  
13 it.

14 JUDGE RINGLER: Okay. So I'll admit your --

15 MS. SNELLING: Okay.

16 JUDGE RINGLER: -- your different printing of GC-95.

17 MR. BALSAM: That works for Respondent, yes.

18 JUDGE RINGLER: So we'll substitute the old one for  
19 the new on that.

20 MS. SNELLING: Thank you.

21 JUDGE RINGLER: All right.

22 MR. BALSAM: Ready?

23 JUDGE RINGLER: Yeah. Ready when you are.

24 MR. BALSAM: Thank you.

25 JUDGE RINGLER: All right.

## CROSS-EXAMINATION

BY MR. BALSAM:

Q. Hi, Cole.

A. Hi.

Q. When you started working for Starbucks in February of '22, were you issued a copy of the partner guide?

A. Yes.

Q. All right. And in the partner guide, there's the dress code policy, correct?

A. Yes.

Q. And by virtue of receiving that copy of the partner guide, you were also asked to sign acknowledging receipt of it, correct?

A. Yes.

Q. And you did in fact do that.

A. Yes.

Q. And by signing and acknowledging receipt of it, you also agreed to abide by the partner guide and its policies, correct?

A. Yes.

Q. Including the dress code policy.

A. Yes.

Q. And the dress code policy contains a section addressing the wearing of pins, correct?

A. Yes.

Q. And the pin policy specifically says that a partner is

1 only able to wear two pins, one a Starbuck-issued pin, and a  
2 union-issued pin, correct?

3 A. I thought it was personal pin, but sure, yeah. Maybe I'm  
4 wrong, yeah.

5 Q. But two pins, nonetheless.

6 A. Yes. Yes.

7 Q. Now, you testified that at some point in time, I think you  
8 said July of '22, Gavin came up to you and told you to take off  
9 a pin, correct?

10 A. Yes.

11 Q. How many pins were you wearing on that day?

12 A. Two.

13 Q. Two. What were the pins that you were wearing?

14 A. It was the Starbucks pronoun pin and a union pride, like a  
15 Starbucks Workers United pride pin.

16 Q. Okay. At any point in time, did Gavin tell you to take  
17 off the union pin?

18 A. Yes.

19 Q. He specifically said take off the union pin?

20 A. Yes.

21 Q. Okay. You said at some point in time, you began wearing  
22 the union pin again, correct?

23 A. Yes.

24 Q. Were you ever disciplined for wearing the union pin?

25 A. After we won our vote, no.

1 Q. At any point in time prior, were you disciplined for  
2 wearing the union pin?

3 A. When I was told to take it off, yeah.

4 Q. In your testimony, that's considered discipline, asking to  
5 take it off?

6 A. I mean, it was a formal, like, sit-down. Am I only  
7 supposed to answer yes or no here?

8 JUDGE RINGLER: If it's a yes or no question --

9 THE WITNESS: Okay. I'm sorry.

10 JUDGE RINGLER: -- you need to answer yes or no. So  
11 is it a yes or no?

12 THE WITNESS: Can you repeat the question?

13 BY MR. BALSAM:

14 Q. Sure. I asked if Gavin asking you to take off the union  
15 pin was considered discipline in your mind.

16 A. Yes.

17 Q. Okay. Were you issued any paperwork reflecting the fact  
18 that Gavin asked you to take off the union pin?

19 A. No.

20 Q. And you testified no one else was present when this  
21 happened, correct?

22 A. Yes.

23 Q. You next testified about the receipt of a final written  
24 warning. Do you recall that testimony?

25 A. Yes.

1 Q. Okay. And you testified that you had clocked in for your  
2 shift, and the shift supervisor told you that Gavin was going  
3 to speak with a few employees. Is that your testimony?

4 A. Yes.

5 Q. Who was the shift supervisor that came to you and told you  
6 --

7 A. Leann Jacobs.

8 Q. Leann Jacobs?

9 A. Yes.

10 Q. Okay. And then you testified that Gavin pulled you in the  
11 back, correct?

12 A. Uh-huh.

13 Q. And at that point in time, Gavin told you that the  
14 disrespect needed to be talked about?

15 A. Needed to be addressed.

16 Q. Needed to be addressed, okay. And then your testimony was  
17 you asked what disrespect because you were confused, correct?

18 A. Uh-huh.

19 Q. And then he motioned for you to go outside with him,  
20 correct?

21 A. Yes.

22 Q. At no point in time did Gavin respond to your question  
23 about your questioning as to what disrespect he was referring  
24 to, correct?

25 A. Yes.



1 Q. Okay. And then when you went outside at that point in  
2 time, you were handed a final written warning, correct?

3 A. Yes.

4 Q. Okay. And it wasn't until after you were issued, handed  
5 the final written warning that there was further discussion  
6 between yourself and Gavin, correct?

7 A. Yes.

8 Q. Okay. And in fact, it wasn't until after you were handed  
9 the final written warning that Gavin mentioned something about  
10 the disrespect being part of the record, correct?

11 A. Yes.

12 Q. All right. But at that point in time, to be clear, you  
13 were already issued a final written warning?

14 A. Yes.

15 Q. And at that point in time, you had mentioned that you saw  
16 Michael Sabriana walk in, correct?

17 A. Yes.

18 Q. Okay. And with respect to Michael Sabriana, the only  
19 thing you had mentioned after you were issued the final written  
20 warning was that you wanted him to be present with you,  
21 correct?

22 A. Yes.

23 Q. Okay. And that was it, correct?

24 A. Yes.

25 Q. You also testified that Gavin said that this had been in

1 the works for months. And I believe you were referring to the  
2 final written warning, correct?

3 A. Yes.

4 Q. Now, Cole, I want to draw your attention to RX-32. RX-32  
5 is the final written warning that you were issued, correct?

6 A. Yes.

7 Q. Okay. And the date that it was created, at the top right  
8 corner it says 8/1/22, correct?

9 A. Yes.

10 Q. And then the infraction for which you were issued  
11 discipline occurred on 7/28, correct?

12 A. Yes.

13 Q. Okay. Is it still your testimony that Gavin said that  
14 this had been in the works for months, even though the  
15 infraction that you were cited for occurred just a few days  
16 before the date this was created?

17 A. Yes.

18 Q. And now discussing the discrepancy between RX-32 and GC  
19 Exhibit 95, you agree that RX-32 contains two pages with your  
20 notes on the second page, correct?

21 A. Yes.

22 Q. When you were handed the copy of the final written  
23 warning, were there two signatures on it?

24 A. I'm pretty sure they were signed in front of me after I  
25 was handed them.

1 Q. So your testimony is that the time that you were handed  
2 the final written warning by Gavin, that at that point in time  
3 there was already two signatures on that document?

4 A. I don't really remember.

5 Q. Okay.

6 A. Honestly.

7 Q. But your testimony is in fact that RX-32, which contains  
8 your handwritten notes on both the first and the second page,  
9 was drafted on that day in the presence of Gavin and I believe  
10 you said Merly, correct?

11 A. Yes. Yes.

12 Q. Going back to GC Exhibit 95, just so we're clear, GC  
13 Exhibit 95 did not contain the second page of the corrective  
14 action form that you had been handed, correct?

15 A. Correct. Yeah.

16 Q. Okay. But you were in fact provided one page, and then  
17 you wrote on the second page.

18 A. Yeah. So -- sorry. I can't -- I'm pretty sure this was  
19 Gavin's copy, the one that you have. I remember writing that,  
20 if that does anything.

21 Q. Okay.

22 JUDGE RINGLER: That's fine. I'm glad you added  
23 that. Thank you.

24 BY MR. BALSAM:

25 Q. You said that after Gavin issued you the final written

1 warning, he asked you if you wanted to go home, and that you  
2 said yes --

3 A. Yeah.

4 Q. -- and that you went into the store, spoke with Michael  
5 Sabriana and Erica Sherwood (phonetic), correct?

6 A. Correct.

7 Q. And did you speak with anyone else after you decided to go  
8 into in the store to leave for the day?

9 A. No.

10 Q. In connection with your -- the wearing of a shirt that you  
11 contend was out of dress code, you testified that you had  
12 looked at the wrong dress code, one being the one that you  
13 looked at was for non-unionized stores?

14 A. Yes.

15 Q. Is it your testimony that there were separate dress codes  
16 for union and non-unionized stores?

17 A. Yes.

18 Q. Based on what?

19 A. I was told that.

20 Q. Who told you that?

21 A. Like, Michael. I don't know. It was in a few, like,  
22 group chats. We were in the store group chat. I don't know.  
23 It was just there were two separate ones. There was one posted  
24 up on the back, and there was another one online that you could  
25 find that was completely different than the one that was posted

1 in the back of the store.

2 Q. So the one that was posted online, was that a Starbucks  
3 posting?

4 A. Yeah.

5 Q. And where was it located?

6 A. I wouldn't know. I just found it off of, like, Michael  
7 sending it, or someone sending it. I didn't find it on my own,  
8 so I wouldn't know where to access it. But it did look the  
9 same as the regular Starbucks dress code policy.

10 Q. You testified that you started working for Starbucks in  
11 February of '22, correct?

12 A. Yes.

13 Q. Was your store already unionized at the time you started  
14 working?

15 A. No.

16 Q. How soon after your starting did it become unionized?

17 A. We unionized in July.

18 Q. Okay. After your store was certified, did anyone at  
19 Starbucks present to you a modified version of a dress code,  
20 asking that you acknowledge receipt of it?

21 A. I don't think so.

22 Q. Did any member of management ever provide you with a  
23 revised dress code in light of the unionization of your store?

24 A. No.

25 Q. But you do acknowledge that the shirt you wore on the date

1 in question was in fact a violation of the Starbucks dress code  
2 policy, correct?

3 A. Yes.

4 Q. Now, with respect to the September 4th, '22 no call-no  
5 show that was part of the grounds for your separation from  
6 employment, you mentioned that in your experience, shift  
7 supervisors would call multiple times if a partner no call-no  
8 showed?

9 A. Uh-huh.

10 Q. How do you know that?

11 A. I was on shift when it would happen.

12 Q. So you yourself would call partners?

13 A. Oh, no, no, no. I would, like, be on shift. And then  
14 when we were super short staffed, it would be widely known when  
15 someone was a no call-no show. So a shift manager or manager  
16 would leave to go into the back to call multiple times.

17 Q. But you weren't present when the store manager went in the  
18 back to call the --

19 A. Not in the back, no.

20 Q. Okay. So you never witnessed a shift supervisor or  
21 manager contact a partner who didn't show up to work?

22 A. I mean, sometimes they'd call in the front. Not  
23 regularly, though. But I have witnessed it, just not -- I  
24 don't know.

25 Q. Did you witness it or not?

1 A. Yes. I did witness it --

2 Q. Okay.

3 A. -- just not regularly.

4 Q. How many times?

5 A. Probably once in the front, and never in the back, no.

6 Q. Okay. So you only witnessed it one time your entire time  
7 of working at Starbucks.

8 A. Yes.

9 Q. Was it a shift supervisor or a manager?

10 A. It was a shift supervisor.

11 Q. And who was the shift supervisor that called the partner  
12 who didn't show up to work? That you witnessed.

13 A. I don't remember.

14 Q. You had mentioned that a partner by the name of Anna.  
15 Forgive me, I don't remember the last name. What was the last  
16 name?

17 A. Krowalski.

18 Q. Krowalski?

19 A. Yes.

20 Q. Was a no call-no show one day, correct?

21 A. Yes.

22 Q. How do you know that Anna was a no call-no show?

23 A. I was on shift with her.

24 Q. Okay. You mentioned that Anna was not terminated for  
25 being a no call-no show, correct?

1 A. Correct.

2 Q. Do you know if Anna had any prior discipline before the no  
3 call-no show?

4 A. I do not know.

5 Q. Okay. Do you know if Anna was disciplined at all?

6 A. I'm not sure, no.

7 Q. Okay. So it's possible then it was discipline for being a  
8 no call-no show, correct?

9 A. Yeah.

10 Q. And in fact, you were not terminated for just being a no  
11 call-no show, correct?

12 A. Correct.

13 Q. In fact, you were terminated for multiple violations of  
14 Starbucks' policy.

15 A. Correct.

16 Q. So the fact that Anna was not in support of the union  
17 really had no bearing on whether or not she was issued a  
18 discipline, correct?

19 A. Correct.

20 Q. With respect to the 9/16/22 incident where you were out of  
21 dress code again, you testified that Gavin came out to the  
22 lobby, and he became very aggressive and started calling you  
23 names.

24 A. Yes.

25 Q. And in particular, you allege that Gavin called you



1 childish and insubordinate, correct?

2 A. Yes.

3 Q. Okay. And you said that there were other people present  
4 when this happened?

5 A. Yes.

6 Q. Who was present?

7 A. Leann was right next to both of us. There was Anthony who  
8 was a -- he was helping that day. He's from a different store.  
9 I couldn't tell you what store. I couldn't tell you his last  
10 name, either. He was present. Yeah.

11 Q. So two people?

12 A. Yes.

13 Q. Anyone else?

14 A. Not that I know of. Actually, yeah. Lauren Yellis  
15 (phonetic) was in there for, like, a minute or two of it. But  
16 I'm pretty sure that's it.

17 Q. Now with respect to the purple beanie that you had -- that  
18 you were told to take off on 9/16/22, you had testified that  
19 you had wore it one or two times prior to that incident,  
20 correct?

21 A. Yes.

22 Q. But to confirm, your testimony is that no manager was  
23 present on those prior two times when you were wearing them,  
24 correct?

25 A. I don't remember. It could have been.

1 Q. And in fact, I think you testified definitively that there  
2 was a shift supervisor on duty at the time.

3 A. Yeah, I remember.

4 Q. Who was the shift supervisor?

5 A. Rachel. I don't know her last name.

6 MR. BALSAM: Just one moment, Judge.

7 (Pause)

8 MR. BALSAM: Nothing further, Judge.

9 JUDGE RINGLER: All right. Anything on redirect?

10 MS. SNELLING: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. SNELLING:

13 Q. Cole, I know that you -- or would shift supervisors  
14 enforce the dress code?

15 A. Yes.

16 Q. Okay. How so?

17 A. By saying -- like, by saying, like, oh you're not supposed  
18 to wear that or, I don't know, sending us home to change.

19 Q. Okay. And so did a shift supervisor, when you wore the  
20 purple beanie, say anything about the purple beanie?

21 A. No.

22 Q. And then during the September 16th incident with Gavin,  
23 did Gavin specifically tell you to take off the beanie?

24 A. I don't remember.

25 MS. SNELLING: Okay. I have nothing further, Your

1 Honor.

2 JUDGE RINGLER: Okay. Counsel?

3 MS> SELLERS: No, thank you.

4 JUDGE RINGLER: Okay. Squared away?

5 MR. BALSAM: Nothing further, Judge.

6 JUDGE RINGLER: Okay. Thank you, as well. All  
7 right. You're excused. Thank you very much for your  
8 testimony. Please do not discuss your testimony with anyone.  
9 All right, thank you. All right.

10 MS. SNELLING: And then, Your Honor, we have the ALJD  
11 for Graziano.

12 JUDGE RINGLER: Okay.

13 MS. SNELLING: And that will be GC Exhibit 96.

14 (General Counsel's Exhibit 96 identified.)

15 MS. SNELLING: Transit Commons. So there's going to  
16 be information about Transit Commons, and then also dress code  
17 enforcement in this, Your Honor.

18 JUDGE RINGLER: All right. I'll note respondent  
19 objects for the record. You want to add anything beyond that,  
20 or you're just --

21 MR. BALSAM: We object.

22 JUDGE RINGLER: Okay. All right. So we'll put that  
23 in rejected exhibit folder. All right. So what else do we  
24 have?

25 MR. GOODE: My next exhibit is here. Can we have

1 five minutes?

2 JUDGE RINGLER: Sure. Five minutes off the record  
3 will be just fine. Okay. We'll go off until quarter after  
4 three.

5 (Brief recess at 3:08 p.m./Reconvene at 3:15 p.m.)

6 JUDGE RINGLER: All right. First and foremost, can  
7 you state your name for the record, and spell it for us, first  
8 and last.

9 MR. DRAVES: Jovan Draves. First name J-O-V-A-N,  
10 last name D-R-A-V-E-S.

11 JUDGE RINGLER: All right. Very good. Please raise  
12 your right hand.

13 Whereupon,

14 JOHN DRAVES,  
15 was called as a witness having been duly sworn, was examined  
16 and testified as follows:

17 JUDGE RINGLER: All right. And, Counsel, what  
18 complaint paragraphs are we getting from this witness?

19 MR. GOODE: 9J, Judge.

20 JUDGE RINGLER: 9J. Okay. That's it? All right.  
21 Go to it.

22 DIRECT EXAMINATION

23 BY MR. GOODE:

24 Q. Hi, Jovan.

25 A. Hello.

1 Q. Jovan, what are your pronouns?

2 A. He/him.

3 Q. Jovan, have you worked for Starbucks?

4 A. I have, yes.

5 Q. Okay. When did you first begin working for Starbucks?

6 A. I believe my first day was July 14th, 2021.

7 Q. And what store did you work at?

8 A. It was 235 Delaware Ave., on the corner of Delaware  
9 Chippewa, otherwise known as Del Chip.

10 Q. And were you discharged by Starbucks?

11 A. I was.

12 Q. Okay. Did you work at Del Chip the entire time of your  
13 employment with Starbucks?

14 A. I did.

15 Q. And what position did you hold with Starbucks?

16 A. Barista.

17 Q. When you were first hired, who was the store manager?

18 A. Robert Hunt (phonetic).

19 Q. And was Robert Hunt the store manager the entire time of  
20 your employment?

21 A. He was not.

22 Q. Okay. Approximately when did Robert Hunt leave?

23 A. He left early to mid-March, I believe.

24 Q. And now are we in 2022?

25 A. Correct.

1 Q. Okay. Now after -- who replaced Robert Hunt?

2 A. His successor was Heather Dow (phonetic).

3 Q. And then was Heather Dow the store manager until the end  
4 of your employment?

5 A. No. She was store manager until I believe June or July.  
6 And at that time, Kae Kifner took over.

7 Q. Okay. Jovan, at some point while working at Del Chip, did  
8 union activity begin at the store?

9 A. Yes.

10 Q. Okay. Were you involved in that union activity?

11 A. I was.

12 Q. How were you involved?

13 A. I was -- I would participate in strikes. I was -- any  
14 strikes that we did have, I would be in attendance. I would  
15 help organize said strikes. I would answer any questions any  
16 employees had in regards to any union matters, protections.  
17 And I would also -- I was also a member of the NCAT, the  
18 National Contract Action Team.

19 Q. Okay. Did you wear any pins while at work?

20 A. I did, yes.

21 Q. What pins did you wear?

22 A. I wore any Starbucks-related pins. I had the one that was  
23 certified barista, one for my one-year. And then I did have  
24 the Starbucks Workers United pin which was a barista's hand  
25 holding a shaker. And it said Starbucks Workers United. And

1 it was a rainbow pin.

2 Q. When did you -- approximately when did you first start  
3 wearing that pin?

4 A. They've distributed those around I think October or  
5 November of 2021.

6 Q. And did you begin wearing it after that?

7 A. Yes. Every day.

8 Q. You mentioned an acronym. Can you describe what that is?

9 A. The NCAT?

10 Q. Yeah.

11 A. National Contract Action Team. So it is a committee of  
12 union representatives to organize collective actions across the  
13 country throughout various bargaining committees.

14 Q. Approximately when did you join that?

15 A. That would be probably around June or July of '22.

16 Q. Okay. Now you mentioned strikes. Can you give us  
17 approximate dates of strikes that you participated in?

18 A. I know there was one, it was in July early. I believe it  
19 was, like, a two-day strike from, like, the 12th to the 14th, I  
20 believe. We were striking over unfair labor practices and  
21 unsafe work environment. I know there was one in August that  
22 was in response to the termination of Allegra Anastasi. And  
23 then there was one in September which was due to -- in response  
24 to a person overdosing in our store and the store manager  
25 refusing to close.

1 Q. Okay. And at that time in September, can you remind us  
2 who the store manager was?

3 A. In September, that was Kae Kifner.

4 Q. And again, this is September of 2022?

5 A. Correct.

6 Q. Okay. I'm showing you what's been marked for purposes of  
7 identification as GC Exhibit 97.

8 (General Counsel's Exhibit 97 identified.)

9 Q. Can you please take a look at that document?

10 A. Yeah.

11 Q. Do you recognize that document?

12 A. I do, yes.

13 Q. What is this?

14 A. This would be the notice of separation provided to me by  
15 Kae Kifner at the time of my termination.

16 Q. Okay. Did you sign this document.

17 A. I did not.

18 Q. Okay. And where were you when you received this document?

19 A. We were in the front of the store in the lobby.

20 Q. Okay. And just to be clear, what I'm showing you is -- is  
21 that the document itself, or a picture of the document?

22 A. That is a picture of the actual document.

23 Q. Okay. Did you take that picture?

24 A. I did, yes.

25 MR. GOODE: Judge, I move for the admission of GC-97.



1 JUDGE RINGLER: Any objection to GC-97?

2 MR. BALSAM: No objection, Judge. Just point out  
3 again that we have a different version.

4 JUDGE RINGLER: Okay.

5 MR. BALSAM: Which we'll introduce.

6 JUDGE RINGLER: All right. So we'll admit 97.

7 (General Counsel's Exhibit 97 admitted into evidence)

8 JUDGE RINGLER: And certainly you're free to  
9 introduce your version of it.

10 BY MR. GOODE:

11 Q. Jovan, I'm going to direct your attention to, there's a  
12 date, August 26th, '21. Do you see that?

13 A. Uh-huh.

14 Q. And it says that you received the written warning on that  
15 date. Do you recall receiving the written warning around that  
16 time?

17 A. I recall receiving a written warning I would believe  
18 around that time from Robert, if I recall correctly.

19 Q. Okay. and who -- again, who is Robert?

20 A. The store manager at that time.

21 Q. Robert Hunt?

22 A. Correct.

23 Q. Okay. So at the time that Robert gave you the written  
24 warning, do you recall having any conversation with him?

25 A. Yes. He provided me with the red copy and then explained

1 this is the first step in the disciplinary process. First was  
2 the written notice, and then I would receive a final written  
3 should any other infraction occur. He said at that time that  
4 the written warning, final written warnings are a six-month  
5 period. So in that time, anything that could move for a  
6 writeup would be next step's termination.

7 Q. Okay. And you mentioned this six-month period. Could you  
8 explain what that meant?

9 A. He meant six months from the time that I would receive the  
10 written notice, the final written, that would be -- that was  
11 when the clock would start. So six months from that date would  
12 be the time period in which that would be in effect.

13 Q. Okay. I'm going to also direct you, Jovan, now to the  
14 final written warning on March 17th. Do you see that?

15 A. Uh-huh.

16 Q. Okay. Do you recall receiving that document?

17 A. I do, yes.

18 Q. And who gave you that final written warning?

19 A. Heather Dow.

20 Q. Okay. And did you -- do you remember where you were when  
21 you received that document?

22 A. Yes. I had just started my shift. So I was just coming  
23 out of the employee break room. And Heather stopped me there,  
24 and she was like hey, can we talk. And I said yeah,  
25 absolutely. And she presented me with the final written. She

1 said, you know, you had a no call-no show, so I submitted this  
2 that to the system and it told me that you were going to be on  
3 a final written. So this is it. And so I signed it and  
4 acknowledged it. I told her, you know, I was advised from  
5 final writtens that it is a six-month period from the time that  
6 I receive it that I can't have any, you know, disciplinary  
7 action. And she said that is correct, six months. Don't mess  
8 up in that time period because for anything, even being late,  
9 you will be fired.

10 Q. Okay. Okay. Did you say anything in response to her?

11 A. Yeah. I reiterated that it was the six-month period. And  
12 she confirmed yes, once again, that it was six months.

13 Q. Okay. Jovan, I'm going to direct you now to the first  
14 bullet point, October 22nd. Do you recall that day?

15 A. I do.

16 Q. Okay. What happened on that day?

17 A. I was scheduled to open the store that day. I had woken  
18 up for my shift. I was feeling unwell, so I decided at that  
19 time that I was going to call in. So while I was waiting for  
20 the store to open and for the shift supervisor to be there, I  
21 had fallen asleep. And so unfortunately, I had overslept and  
22 missed my opportunity to call. And so when I woke up, I did  
23 see that I had received a text message from the supervisor. At  
24 that time it was Melanie Patrone just asking, you know, what  
25 happened. And I explained to her at that time, you know, I'm

1 so sorry. I overslept. I wasn't feeling well. And she  
2 acknowledged that.

3 Q. Okay. Now on the 22nd, did you call your store manager?

4 A. I did not, no.

5 Q. Okay. Why not?

6 A. At that time, I had a active workplace violence case out  
7 against her. So I was just trying to do my best to avoid  
8 contact with her as much as possible.

9 Q. Okay. And can you describe to us the workplace violence  
10 complaint?

11 MR. BALSAM: Objection, relevance.

12 JUDGE RINGLER: I'll allow it. Go ahead.

13 THE WITNESS: So end of September of '22, I had filed  
14 a workplace violation claim against Kae Kifner. I was working  
15 the floor at the time. And she was upset that I had written a  
16 note basically reminding of policy, Starbucks policy against  
17 scented lotions because she had one at the handwash station.  
18 She asked if I had put the note there. I said yes, I did. She  
19 said that I did not need to write notes, that I could just talk  
20 to her because she's a person and she's right there.

21 I said that I would prefer not to talk to her because  
22 she gets very combative and doesn't take criticism well. At  
23 that point, she crossed the store from the handwash station to  
24 the second bar that I was at and put a finger in my face and  
25 told me that I was not allowed to write notes, and if had wrote

1 another note that she was going to write me up at that time.

2 I told her that that isn't -- if that's what she felt  
3 was necessary, she could do that and that I would follow up  
4 with partner relations in response to her actions. She said  
5 okay, and walked away.

6 BY MR. GOODE:

7 Q. And did you follow up with partner relations?

8 A. I did. They gave me a follow up date of October 3rd. At  
9 that time, they said it was still under ongoing investigation.  
10 From that time to my termination I heard nothing in response to  
11 the investigation.

12 Q. Okay. And now October -- the second bullet point, October  
13 30th, do you acknowledge that you were a no call-no show on  
14 that day?

15 A. I do.

16 Q. Now I'm going to direct your attention back to the 10/22  
17 bullet point. After that day, did you have any conversations  
18 with Kae about the 22nd?

19 A. I did, yes.

20 Q. Okay. Approximately when did you have a conversation with  
21 Kae?

22 A. It was a few days later. I believe the 24th if I'm not  
23 mistaken.

24 Q. Okay. And where did you speak with Kae at?

25 A. Right in the back by the manager's desk.

1 Q. Okay. Was anybody present besides you and Kae?

2 A. No.

3 Q. Okay. And then take us through what that conversation  
4 was.

5 A. Yeah. I was working on bar. Kae had come up and she  
6 asked me to step back and talk to her for a moment. So I did.  
7 At this point, I had taken the liberties of recording any audio  
8 in the store just because I had that workplace violence case  
9 out against Kae. And so as I was approaching the back of the  
10 store, she saw me putting my phone in my apron. She said that  
11 she did not consent to audio being recorded. I responded by  
12 saying that's fine.

13 She then asked me, you know, what happened on the 22nd.  
14 You know, I didn't hear from you. And I said yeah, I was sick,  
15 so I was going to call in. I fell asleep while waiting for the  
16 store to open. So I responded, followed up with Melanie after  
17 I had woken up because she had reached out. She said why  
18 didn't you reach out to the point of contact or the failsafe or  
19 something. I said because I had fallen asleep.

20 She said no, why didn't you call the store manager.  
21 You're supposed to call me when you're going to be calling off.  
22 And I said because I'm avoiding contact with you because I do  
23 have an active workplace violence case against you, to which  
24 she responded oh, okay. And I said is there anything else that  
25 you need from me. She said no. So I returned to the floor.

1       After I had gotten back to the floor, she came back up and  
2       said Javon, can I talk to you again. At this point, I was a  
3       little exacerbated from dealing with her. So I was like oh my  
4       gosh, Kae. Yes. So I walked back with her again. She said  
5       why didn't you respond to Melanie that day. And I said I did.  
6       And she said Melanie told me that you didn't follow up with her  
7       until the following day. And I said that isn't correct. I  
8       responded to her that day after I had woken up. And she said  
9       okay, you may return to the floor.

10       MR. GOODE: I don't have anything further, Judge.

11       JUDGE RINGLER: Okay. All right. So affidavit.

12       MR. GOODE: It's five pages, Judge.

13       JUDGE RINGLER: All right. So, okay. So it's 3:32.  
14       So why don't we reconvene at 3:45? If that's too short, let me  
15       know and I'll give you some more time.

16       MR. BALSAM: Sounds fair. Thank you.

17       JUDGE RINGLER: Okay.

18       (Brief recess at 3:32 p.m./Reconvene at 3:45 p.m.)

19       JUDGE RINGLER: Okay. We're back.

20                   CROSS EXAMINATION

21       BY MR. BALSAM:

22       Q.    Good afternoon. You started working for Starbucks on July  
23       14th, '21, correct?

24       A.    Correct.

25       Q.    And at the time you started working for Starbucks, you

1 were issued a copy of the partner guide, correct?

2 A. Correct.

3 Q. And in the partner guide is a copy of the time and  
4 attendance policy, correct?

5 A. Uh-huh.

6 Q. And within that it references what a partner's supposed to  
7 do if they're going to be a no call-no show, correct?

8 A. Correct.

9 Q. And that includes notifying the store manager?

10 A. That it does.

11 Q. And the time and attendance policy that you acknowledge  
12 receiving and understanding indicates that a partner who fails  
13 to abide by the time and attendance policy could be subject to  
14 discipline up to and including termination, correct?

15 A. Correct.

16 Q. And isn't it true prior to your notice of separation, you  
17 had multiple no call-no shows, correct?

18 A. Correct.

19 Q. And in fact, there was a pattern that you were  
20 demonstrating with respect to your no call-no shows, correct?

21 A. I don't understand the question.

22 Q. Well, you started working for Starbucks on July 14th, '21.  
23 And you were separated from employment on 10/31/22, correct?

24 A. Correct.

25 Q. All right. And in that time that you had worked for



1 Starbucks, you were -- you had multiple no call-no shows.

2 A. Correct.

3 Q. You've been handed what's been marked as RX-33.

4 (Respondent's Exhibit 33 identified.)

5 Q. Do you recognize RX-33?

6 A. I do, yes.

7 Q. Okay. And this is the written warning that was issued to  
8 you on August 26, '21, correct?

9 A. Correct.

10 Q. And this was issued to you because you had violated  
11 Starbucks' time and attendance policy with respect to being --  
12 as a result of being a no call-no show, correct?

13 A. Correct.

14 Q. Okay. And this was issued to you just over a month after  
15 you started working for Starbucks, correct?

16 A. Correct.

17 MR. BALSAM: Move into evidence RX-33.

18 JUDGE RINGLER: Any objection to R-33?

19 MR. GOODE: No objection.

20 JUDGE RINGLER: All right. Admitted.

21 (Respondent's Exhibit 33 admitted into evidence)

22 BY MR. BALSAM:

23 Q. And then even after receiving the written warning, you  
24 subsequently were issued a final written warning for continued  
25 no call-no shows, correct?

1 A. Correct.

2 Q. And also for being late to work, correct?

3 A. Correct.

4 Q. You've been handed what's been marked as RX-34.

5 (Respondent's Exhibit 34 identified.)

6 Q. Do you recognize RX-34?

7 A. I do.

8 Q. All right. And this is the final written warning that  
9 Heather Dow issued to you on March 17th, '22?

10 A. Correct.

11 Q. And on the second page where it says partner, and then  
12 above that, signature. Is that your signature?

13 A. That is mine.

14 MR. BALSAM: Okay. Judge, I move into evidence RX-  
15 34.

16 JUDGE RINGLER: Any objection to R-34?

17 MR. GOODE: No objection.

18 JUDGE RINGLER: Admitted.

19 (Respondent's Exhibit 34 admitted into evidence)

20 BY MR. BALSAM:

21 Q. And on this document it reflects not one, but at least two  
22 no call-no shows, correct?

23 A. I see one.

24 Q. Well, on 2/21 it says called out. What's that?

25 A. That is called in sick.

1 Q. Okay. So it's different from a no call-no show?

2 A. Correct.

3 Q. How is it different?

4 A. Correspondence was made.

5 Q. Okay. And who did you correspond with on February 21st?

6 A. I do not recall.

7 Q. Okay. But at least at this point in time, you had been --  
8 you had no call-no showed at least two times, correct?

9 A. Correct.

10 Q. And in addition to being a no call-no show, you also were  
11 late to work on at least two occasions by more than 60 minutes,  
12 correct?

13 A. Correct.

14 Q. And again, being late to work and also calling out and/or  
15 being a no call-no show all violate Starbucks time and  
16 attendance policy, correct?

17 A. Correct.

18 Q. And by virtue of violating a Starbucks time and attendance  
19 policies on multiple occasions, you understood that you could  
20 be subject to discipline, including separation, correct?

21 A. Correct.

22 Q. And even then, you continued to violate Starbucks' time  
23 and attendance policies, correct?

24 A. Correct.

25 UNIDENTIFIED SPEAKER: That's a correct?

1 JUDGE RINGLER: That's a correct, yes.

2 MR. BALSAM: Correct. Judge, to the extent that I  
3 haven't done it, I'd like to move in RX-34. I thought I did,  
4 but --

5 JUDGE RINGLER: I thought you did, as well. But I  
6 could be confused. So R-34 is admitted to either admitted for  
7 the first time or confirmed that it is.

8 MR. BALSAM: Thank you, Judge.

9 JUDGE RINGLER: All right.

10 BY MR. BALSAM:

11 Q. And in fact, when you were ultimately separated from  
12 employment in October '22, you had been, at least at this  
13 point, a no call-no show on at least four prior -- for total  
14 occasions, correct?

15 A. Correct.

16 Q. You've been handed what is listed as RX-35. Do you  
17 recognize RX-35?

18 A. I do.

19 Q. All right. And this is your notice of separation,  
20 correct?

21 A. Correct.

22 Q. Okay. And in the bottom left corner where it says  
23 partner's signature, it says refused to sign. That's not your  
24 handwriting, correct?

25 A. Correct.

1 Q. Okay. You testified that Kae Kifner issued you this  
2 notice of separation?

3 A. Correct.

4 Q. Were you present --

5 A. Yes.

6 Q. -- when -- were you present when Kae wrote on it refused  
7 to sign?

8 A. No.

9 MR. BALSAM: Okay. Judge, I'd like to move into  
10 evidence RX-35 as a business record for Starbucks.

11 JUDGE RINGLER: Okay. So R-35 is essentially a  
12 duplicate of GC-97 with the exception that there's I guess an  
13 additional management name printed, and refused to sign.  
14 Correct? Am I right about that?

15 MR. BALSAM: That's correct, Judge.

16 JUDGE RINGLER: All right. So we'll admit R-35.

17 (Respondent's Exhibit 35 admitted into evidence)

18 BY MR. BALSAM:

19 Q. Did you record your separation meeting that you had with  
20 Kae?

21 A. I did.

22 Q. And where is -- do you still have a copy of that  
23 recording?

24 A. I do not, no.

25 Q. What did you do with the recording?

1 A. It was provided to the NLRA.

2 Q. When did you provide it to the National Labor Relations  
3 Board?

4 A. When?

5 Q. Yes.

6 A. When I provided my testimony, or my statement affidavit.  
7 That thing.

8 Q. And did you record this on a cell phone?

9 A. Correct.

10 Q. What type of cell phone?

11 A. As in, like Android, iPhone?

12 Q. Is it Android?

13 A. Yeah.

14 Q. Okay. How did you send it to the National Labor Relations  
15 Board?

16 A. Email.

17 Q. Do you still have a copy of that email transmitting the  
18 audio file?

19 A. I do not think so.

20 Q. Who did you send it to at the National Labor Relations  
21 Board?

22 A. Whoever was the one that -- you know, we had to leave or -  
23 - either that or it might have been sent to (indiscernible).

24 Q. Thomas Miller?

25 A. Yes.

1 Q. Okay. And you emailed it to Thomas Miller's NLRB email  
2 address?

3 A. Correct.

4 Q. Do you recall when you emailed Thomas Miller a copy of the  
5 audio file of your separation?

6 A. It was at the time of the affidavit.

7 Q. So on November 15th, 2022?

8 A. Correct.

9 MR. BALSAM: Judge, I just want to note for the  
10 record that we issued a subpoena to the National Labor  
11 Relations Board for recordings such as this, and they still  
12 haven't responded to our subpoena. I just want to note for the  
13 record.

14 JUDGE RINGLER: Okay.

15 (Pause)

16 MR. BALSAM: Judge, to the extent that the National  
17 Labor Relations Board has in their possession a copy of this  
18 recording, I request that you order them to produce it to us.

19 JUDGE RINGLER: Counsel, you want to respond?

20 MR. GOODE: Yeah. The general counsel did respond to  
21 respondent's request that we turn over documents and denied  
22 that request --

23 JUDGE RINGLER: Okay. Now --

24 MR. GOODE: -- according to 102.118.

25 JUDGE RINGLER: At the point where you denied it,

1     though, he was not a witness testifying on the stand. I think  
2     arguably this recording would come under the heading, the  
3     broader heading of Jencks material, which you would have to  
4     provide as part of the affidavit. So I think it is appropriate  
5     to provide that if you have that recording.

6             MR. GOODE: I don't know if we do. I mean, I --

7             JUDGE RINGLER: You want to take a break to see if  
8     you've got it?

9             MR. GOODE: Okay.

10            JUDGE RINGLER: All right, because I think it would  
11     be -- come under the heading of Jencks. Did you want to add  
12     something on the record, Counsel?

13            MR. BALSAM: Yeah, only that -- two things. One, I'm  
14     not aware of the, just who denied this request of ours to  
15     petition, I'm sorry, the subpoena that we issued.

16            MR. GOODE: I mean, the General Counsel responded  
17     to --

18            MR. BALSAM: Do you have a date when that happened?  
19     I just, I'm not aware of that occurring.

20            MR. GOODE: I don't. I can find that out.

21            MR. BALSAM: Okay. But beyond that, Judge, it is  
22     referencing the Jencks statement that there was a recording  
23     made, which is why I brought it up.

24            JUDGE RINGLER: Right.

25            MR. BALSAM: And so --



1 JUDGE RINGLER: May I have it for just a moment just  
2 to see that because I don't get the affidavits unless I ask for  
3 them. All right. And you were pointing out -- which paragraph  
4 did you just point out, if you want to just show me here where  
5 it is.

6 MR. BALSAM: Sorry.

7 JUDGE RINGLER: That's fine. And then we'll go off  
8 the record for you to retrieve it and, you know, also confirm  
9 your position on it. So I will note for the record it does say  
10 the affidavit, I'm looking at Page 5. I just lost it. Oh, I  
11 must be getting punchy at this point. All right.

12 I recorded this conversation using my phone which was  
13 on the table in front us sitting face up during the  
14 conversation. My understanding is that the board agent is  
15 provided with a copy of this recording during which Kae fired  
16 me.

17 So I think it's incorporated by reference, and it  
18 would come under the heading of Jencks. So I'd ask you to look  
19 to see if you have it. And number two, reconfirm your position  
20 with me when you come back.

21 MR. GOODE: I mean, I can -- I don't believe -- I  
22 mean, it's not a statement that was provided to us that was  
23 adopted by the witness, judge. It's not a statement. It's not  
24 something that the witness adopted. I don't believe that  
25 recording is Jencks material, Judge.

1 I mean, I can confirm whether we have the recording.  
2 But I believe our position's going to be that it's not Jencks.  
3 It's not a statement that was just adopted, provided. I mean,  
4 yeah, it's not something that was adopted by the witness,  
5 Judge.

6 I mean, I can probably find, I'm pretty sure, in --  
7 I'm thinking I think there's a section in the bench book that I  
8 can provide for Your Honor.

9 JUDGE RINGLER: I'm sure there is. And I'm going to  
10 look at it in the interim, too. But first, let us know if you  
11 have it.

12 MR. GOODE: Okay.

13 JUDGE RINGLER: During the break that we're going to  
14 take now. So I'm going to go off for five minutes.

15 MR. BALSAM: And, Judge, just to make sure we're  
16 clear on the record, my colleague received the letter denying  
17 the subpoena. I wasn't copied on it. And I don't know why I  
18 wasn't copied on it, which is probably why --

19 JUDGE RINGLER: Why you were unaware.

20 MR. BALSAM: I wasn't aware of it.

21 JUDGE RINGLER: Okay.

22 MR. BALSAM: Nonetheless, this would fall under the  
23 Jencks issue, and I'd request --

24 MR. GOODE: It doesn't, but I could -- I'll confirm.

25 JUDGE RINGLER: Okay. So first, see if we have it.

1 And then we'll figure out the rest of it. All right. So we're  
2 going to go off the record again for five minutes.

3 (Brief recess at 3:57 p.m./Reconvene at 4:09 p.m.)

4 JUDGE RINGLER: All right. While we were off the  
5 record, I think we established a couple of things. The General  
6 Counsel confirms that they do have a copy of this recording.  
7 They've confirmed that they requested that -- Respondent  
8 requested the GC's consent. And it has been rejected.

9 I invited respondent that if you'd like for me to  
10 sign a subpoena, if you want to subpoena this information from  
11 counsel for the General Counsel, I'm happy to sign it and we'll  
12 take it from there.

13 Union Counsel is allegedly CC'd on the subpoena. Not  
14 the subpoena, the tape recording that was provided. And Union  
15 Counsel is going to, I guess, inspect your records to see if  
16 you have that. You're directed obviously not to destroy it,  
17 that we might need this for the purposes of the hearing.

18 I have two separate issues. I've got the one where  
19 you're going to subpoena this information from counsel for the  
20 General Counsel. And I've also got the petition to revoke  
21 that's in front of me that I assume that you're going to reply  
22 to.

23 MR. BALSAM: Yeah. Judge, you gave us until May 3rd  
24 I believe is the date.

25 JUDGE RINGLER: Right. So I'll expect that, as well.

1 So we've got those two pieces to this. And also, you might be  
2 called back to testify again. So normally, you know, and this  
3 might take a while. So obviously don't discuss your testimony  
4 with anyone between now and whenever you're called back or the  
5 hearing comes to a close.

6 THE WITNESS: Got you.

7 JUDGE RINGLER: Okay. All right. And then I've also  
8 directed the witness that to the extent this is on his sent  
9 items, that he is not to delete it. And you're aware of that,  
10 as well?

11 THE WITNESS: Yes, sir.

12 JUDGE RINGLER: Okay. So I guess that's pretty much  
13 what we've got at this point. The bench book cites a special  
14 appeal. I'm not sure that that's applicable to this case  
15 saying the board reversed, respondent was required to request  
16 the GC's consent to produce the recording under Section 102-  
17 118(a). But it seems like that piece of it's already been  
18 done. So that hoop I think has been jumped through at this  
19 point. That's what we've got.

20 So, all right. Let's continue with your cross.

21 MR. BALSAM: I have nothing further, Judge.

22 JUDGE RINGLER: All right.

23 MR. BALSAM: Subject to recall.

24 JUDGE RINGLER: Right. Of course, of course. You  
25 know, once again, I mean, respondents complain periodically

1 about me, you know, asking questions. And I've indicated my  
2 intention is to develop a full record.

3 Likewise, not having something like this which would  
4 help us develop a full record, I don't know, it might say  
5 nothing. It probably says nothing would be my guess. But if  
6 that's the case, then it kind of begs the question why are we  
7 going through all these extra exercises to, you know, get to  
8 the same point.

9 So I want to develop a full record, whether it's pro  
10 or con GC. So please, take that under advisement. All right.  
11 Okay. Anything on redirect?

12 MR. GOODE: I have nothing, Judge.

13 JUDGE RINGLER: All right. Sir, you are excused,  
14 subject to the possibility you'll be recalled about this  
15 recording. So do not discuss your testimony with anybody.

16 THE WITNESS: I understand.

17 JUDGE RINGLER: Okay.

18 THE WITNESS: Thank you.

19 JUDGE RINGLER: All right. So what do we have next?  
20 Is next our last witness?

21 MR. GOODE: Yes, Judge. And I've been told that he  
22 could possibly be here as early as 4:30.

23 JUDGE RINGLER: Okay.

24 MR. GOODE: I really expect him sometime between 4:30  
25 and 5:00, Your Honor.

1 JUDGE RINGLER: All right. All right. We'll go off  
2 the record until that time.

3 (Brief recess from 4:13 p.m./Reconvene at 4:32 p.m.)

4 JUDGE RINGLER: Got another witness.

5 MR. GOODE: This is Marcus Hopkins.

6 JUDGE RINGLER: All right. We've got Marcus Hopkins.

7 So, Mr. Hopkins, if you would --

8 MR. HOPKINS: Hi.

9 JUDGE RINGLER: Hello. Can you spell your name for  
10 the record, first and last?

11 MR. HOPKINS: Yeah. M-A-R-C-U-S for Marcus. And  
12 H-O-P-K-I-N-S for Hopkins.

13 JUDGE RINGLER: All right. Please raise your right  
14 hand.

15 Whereupon,

16 MARCUS HOPKINS,  
17 was called as a witness having been duly sworn, was examined  
18 and testified as follows:

19 JUDGE RINGLER: All right. Complaint paragraphs,  
20 Counsel?

21 MR. GOODE: Your Honor, this is Complaint Paragraph  
22 9I.

23 JUDGE RINGLER: Okay. 9I, all right. Okay. Your  
24 witness.

25 DIRECT EXAMINATION

1 BY MR. GOODE:

2 Q. Hi, Marcus. What are your pronouns?

3 A. He/him or basically they/them. Whichever. Whichever  
4 comes first, I don't care.

5 Q. What -- have you worked for Starbucks?

6 A. Yes.

7 Q. When did you first begin working for Starbucks?

8 A. I believe it was 2019.

9 Q. Okay.

10 A. The later part of 2019.

11 Q. Okay. And what store did you first begin working at?

12 A. Delaware and Chippewa in Depew. Or, no. Transit first.  
13 I'm sorry. Delaware Chippewa was the second store.

14 Q. Okay. So --

15 A. Transit French, then Depew, yeah.

16 Q. Okay. So the first store you started working at was  
17 Transit?

18 A. Yeah. I'm sorry.

19 Q. That's okay. Approximately how long did you work there  
20 for?

21 A. That one was three years.

22 Q. Okay. And did you continue your employment beyond Transit  
23 and French?

24 A. Yeah. That's when I went to Delaware and Chippewa. Yes.

25 Q. Do you remember approximately when you transferred to

1 Delaware and Chippewa?

2 A. I believe it was 2021.

3 Q. Okay.

4 A. That's when I got promoted to be shift supervisor.

5 Q. Do you still work for Starbucks?

6 A. I do not.

7 Q. Approximately when did your employment end at Starbucks?

8 A. Late February.

9 Q. Of this year?

10 A. Yes.

11 Q. So I'm going to direct your attention to approximately  
12 August of 2021.

13 A. Okay.

14 Q. Were you at Delaware and Chippewa at that time?

15 A. Yes.

16 Q. And at some point, Marcus, did there -- did union activity  
17 begin at Del Chip?

18 A. I believe it was before then, too. But yes.

19 Q. Okay. Did you participate in that union activity?

20 A. Yeah.

21 Q. Okay.

22 A. I was a supporter, yeah.

23 Q. And how did you -- did you show your support for the union  
24 at work?

25 A. Yeah.



1 Q. And how did you do that?

2 A. I wore multiple pins, talked about it with my coworkers  
3 whenever they asked me about it. Basically I never forced it  
4 on anybody, but I was always willing to be like yeah, let's  
5 talk about it. I don't care.

6 Q. What pins did you wear?

7 A. I wore, like, the Memphis seven one, the Pride union one,  
8 and the original Starbucks logo, union logo. Yeah.

9 Q. And did you wear those every day?

10 A. Yeah. If they weren't on my apron, they were on my  
11 backpack.

12 Q. Did you sign any letters in support of the union?

13 A. I believe the first one, yeah.

14 Q. Did you participate in any strikes, Marcus?

15 A. Yeah. More or less. I was either voluntarily there or  
16 just I would show up with a Tim Hortons or something for  
17 employee that was asking for it.

18 Q. Okay. And when you say you were voluntarily there, what  
19 do you mean by that?

20 A. Yeah. Like, I would show up and would stand the cold with  
21 all them outside in front with my jacket, and we would do our  
22 honk if you support union sign. And they would always would  
23 you want to do that first. And I would show up.

24 Q. And in front of what stores would you do that at?

25 A. Only Delaware and Chippewa. Yeah.

1 Q. Can you estimate approximately when you participated in  
2 these strikes?

3 A. So the first one I participated I believe was in November.  
4 And then the second one I mostly just showed up with the Tim  
5 Hortons and Tim Bits because everybody was cold and wanted  
6 food.

7 Q. Now when you say November, was that 2022?

8 A. Yes. Yes.

9 Q. Marcus, I'm showing you what's been marked for purposes of  
10 identification as GC Exhibit 98.

11 (General Counsel's Exhibit 98 identified.)

12 Q. Can you take a look at this document?

13 A. Yeah.

14 Q. Do you recognize this?

15 A. I do, unfortunately.

16 Q. And what is this document?

17 A. This was my final writeup.

18 Q. Okay. And did you sign this document?

19 A. Absolutely not.

20 Q. And who gave this to you?

21 A. Kae Kifner and Helena.

22 Q. And who is Kae Kifner?

23 A. Kae Kifner was my manager at Delaware Chippewa.

24 Q. And as the store manager?

25 A. Yeah.

1 MR. GOODE: Move for the admission of GC-98, Judge.

2 JUDGE RINGLER: All right. Any objection to 98?

3 MR. BALSAM: No objection. Just noting for the  
4 record that Starbucks' copy has a notation on the bottom that  
5 says refused to sign.

6 JUDGE RINGLER: Okay. So I'll admit 98.

7 (General Counsel's Exhibit 98 admitted into evidence)

8 JUDGE RINGLER: And if you want to supplement the  
9 record and move in that, that's more than fine.

10 Go ahead, Counsel.

11 BY MR. GOODE:

12 Q. Marcus, I'm going to direct your attention to the portion  
13 of the document that begins on 11/3/22.

14 A. Oh, yeah.

15 Q. Do you see that?

16 A. Right in the top box here?

17 Q. Yeah.

18 A. Okay.

19 Q. Okay. Did you work on November 3rd, 2022?

20 A. Yes.

21 Q. Okay. And what if anything happened that day?

22 A. From what I remember, that day was just a normal Starbucks  
23 day. I came in to open, got asked by the union for some  
24 documents, and I gave them the documents.

25 Q. Okay. So what documents do you recall being asked for?

1 A. A DCR for future reference for an upcoming strike. And  
2 then just partner phone numbers and contact information that  
3 was available all the time in the back.

4 Q. Okay. So let's start with the DCRs. Can you explain what  
5 a DCR is?

6 A. Yeah. It's going to be, like, your daily schedule that  
7 has the name of the partner, your scheduled time, start time,  
8 end time. And if you work for more than six hours, I believe  
9 two breaks, like two tens. And then your 30-minute lunch.

10 Q. So does it layout employee shifts for the day?

11 A. Yeah. And normally what your coverage as, like non-  
12 coverage, coverage. Or, like, whatever Kae was listed as that  
13 day.

14 Q. Now what partner information is on a DCR?

15 A. Your name, if anything like your partner numbers, like  
16 mine was 277, et cetera, et cetera. And just the date and  
17 times, really.

18 Q. Now, you mentioned the I think employee contact  
19 information?

20 A. Yeah.

21 Q. And you said it was available in the back. Can you  
22 explain what is available in the back?

23 A. Yeah. So in the back there's the manager's desk which was  
24 right next to all the fridges where we got food deliveries. So  
25 basically anybody had to be there anyway. And then there was

1 her computer. And to the right was a contact sheet of every  
2 partner that was hired or coming in at that time, and their  
3 phone number.

4 Q. Okay. So did you -- so the DCRs, did you print those out?

5 A. Yes.

6 Q. Okay. And can you recall what specific DCRs you printed  
7 out?

8 A. Yeah. I believe it was three weeks' worth just for in  
9 case of how long our strike was going to go.

10 Q. Now with respect to the employee contact information, what  
11 if anything did you do with that?

12 A. That was just sent in our store union group chat, which  
13 was always a thing since I also came to the store, like since I  
14 first started at work.

15 Q. Okay. So did you -- what did you send to your employee  
16 GroupMe chat?

17 A. Yeah. So the employee GroupMe, I just said I printed them  
18 off, handed them off to my union rep at the time. And then  
19 also, for the contact sheet, it was just a picture.

20 Q. Okay. So you took a picture of the contact --

21 A. Yeah.

22 Q. -- sheet and you sent that in your GroupMe chat?

23 A. Yeah.

24 Q. Okay.

25 A. So everybody could get the same contact information.

1 Q. Okay. Now you testified that you handed I think the DCRs.

2 A. Yeah.

3 Q. Who did you hand those to?

4 A. Connor Murdaugh. No, not Murdaugh. Sorry. Netflix show  
5 I've just been watching. But Connor. Yeah.

6 JUDGE RINGLER: What show is this?

7 THE WITNESS: The Murdaugh Murders.

8 JUDGE RINGLER: Oh, okay.

9 THE WITNESS: Or trials. Yeah, just got off of  
10 binging that. So sorry.

11 JUDGE RINGLER: Okay. That's fine.

12 BY MR. GOODE:

13 Q. Connor Mauche?

14 A. Yes, Connor Mauche. There you go.

15 Q. So did you hand those to Connor on November 3rd, 2022?

16 A. Correct.

17 Q. Okay. Where were you when you handed those to Connor?

18 A. In the lobby.

19 Q. Okay. Now can you explain, are DCRs kept in-store?

20 A. Most of the time, yes.

21 Q. Where are they typically kept in the store?

22 A. Right by our pastry case, or some stores have them posted  
23 right, like, on the side of the pastry case or on a wall.  
24 Basically, everybody can see.

25 Q. Okay. All right. So at some point, are you contacted by

1 Starbucks about handing off this information?

2 A. I believe about a month later, yeah.

3 Q. Okay. So take us through that a month later, what contact  
4 was made.

5 A. Yeah. So Helena came in the one day, asked me if I could  
6 chat after a school rush. And I said I don't mind, sure. And  
7 we went and talked in the one corner of the store. If you walk  
8 in, it's to the right. And I sat with Kae and Helena and we  
9 talked about what happened. Initially she asked me about how  
10 my day was, and then went from there.

11 Q. Okay. Do you know Helena's last name, by chance/

12 A. I don't unfortunately at this moment. I remember a face.  
13 I'm a face person.

14 Q. Okay. So where did this conversation with Helena and Kae  
15 take place?

16 A. In the lobby in the one corner. My back was to the  
17 partners. They were facing.

18 Q. Okay. So after the you said initial conversation, what  
19 took place next?

20 A. Yeah. Mostly they asked me about my day, how I was doing,  
21 what I was doing that helped improve the store because she  
22 complimented me on how I was running the store. And then she  
23 asked me that they checked the cameras and saw me doing that.  
24 And basically I just told them the same thing I've been telling  
25 you guys.

1 Q. Okay.

2 A. I was contacted by the union. They asked me for papers.  
3 And I said the union was a part of our store and they should be  
4 our partners. And I gave them the same information I would any  
5 partner.

6 Q. Okay. And did Helena or Kae say anything to that in  
7 response?

8 A. Yeah. They really kind of just kept quiet. But I asked a  
9 couple times if I was not supposed to do that, if that was  
10 against something. And both respectively said we're more about  
11 protecting our community and our store environment and just  
12 making sure their place is protected, which you're really great  
13 at, as you keep the customers happy. And I was like thank you,  
14 I appreciate it. But again, was I not supposed to do that, and  
15 never got an answer.

16 Q. Were you given any indication in that conversation that  
17 you were going to be disciplined for this?

18 A. Absolutely not. I honestly thought it was a positive one  
19 because then we talked about me becoming a store manager.

20 Q. Okay. When you handed that information, the DCRs to  
21 Connor, were there any managers present?

22 A. No.

23 Q. Now did you have any further conversations with management  
24 about what transpired on November 3rd?

25 A. Yeah. They approached me again. I believe it was the



1 middle or end of December. Basically same entire thing, same  
2 situation. Asked me how I was and what I was doing again to  
3 improve the store, complimented me on how I'm doing a great job  
4 and our numbers are going up every time I was there, and asked  
5 me the same line of questioning that I said. And again, I  
6 asked was I not supposed to do that because you're asking me  
7 again. And still nothing.

8 Q. So step back for me.

9 A. Yeah.

10 Q. Where did this conversation take place?

11 A. Yeah. This one, if you're walking into the store, it  
12 would be right to the left. And again, my back was to the  
13 partners, and they were facing the partners.

14 Q. And who was present for that conversation?

15 A. Again Kae and Helena.

16 Q. And I just want to make sure the record's clear. After  
17 you asked if you shouldn't have done that, did you get any  
18 answer from them?

19 A. No. Just again it was the same, we're protecting our  
20 place which you're doing great at. Doing a good job. I'll see  
21 you soon.

22 Q. Were you given any indication in that conversation that  
23 you were going to be disciplined for this?

24 A. No.

25 Q. Okay. So I'm going to direct your attention to the day

1 that you received your final written warning.

2 A. Yeah.

3 Q. Okay? What -- were you working that day?

4 A. Yes.

5 Q. Okay. And we see dates on GC Exhibit 98, January 7th,  
6 2023. Is that the day that you received this?

7 A. Yes.

8 Q. Okay. So who -- strike that. Where were you when you  
9 received this?

10 A. So initially, it was in the front, same -- same spot. If  
11 you walked in, to the left. Same table.

12 Q. Okay. And was it -- was it just Kae and I guess it's  
13 Helena?

14 A. Yeah, Helena, Helina. I don't know. She never really  
15 introduced herself. And whenever anybody would ask where she  
16 worked or what she did, she would refuse to answer and just say  
17 I'm with Starbucks.

18 Q. Okay. And then take me through the conversation that  
19 occurred.

20 A. Yeah. So initially, I was just finishing my shift first.  
21 And then Kae asked me if I could talk with both of them. And I  
22 said okay, sure. And but knowing who Helena was, or Helina,  
23 that somebody was going to get fired or written up every time  
24 that she would come in. So I initially knew that something was  
25 going to happen.

1        So I sat down and talked with them. Basically, they  
2 handed me this paper and said this is your final writeup. And  
3 I initially stopped them in their tracks and I said so you're  
4 ignoring your own steps of a writeup where there was no  
5 documented coaching, no initial written warning. You just  
6 start going right to a final about a topic that I've asked you  
7 on multiple occasions if I was not supposed to do. And you  
8 would refuse to answer me.

9        And that's when Helena got in my face and said this is not  
10 black and white. This is not emotional. You can go to HR  
11 about it if you have a problem. And I said anytime a partner  
12 has gone to HR, nothing's come of it, or we got basically  
13 laughed off and basically weren't respected.

14 Q.    How did the conversation end?

15 A.    With Kae not looking me in the eye at all. Helena,  
16 whatever her name is, not happy. She definitely was because  
17 I'm not a person that's just going to take it and leave it.  
18 I'm very much open book. I'll tell you whatever, but I'm not  
19 going to be disrespected, especially at a job I've worked at,  
20 really hard at for four and a half years, and busted my butt  
21 off and put my blood, sweat, and tears into a company I  
22 initially believed in. And basically said I'm not going to  
23 sign that, but I will take my copy and speak to the lawyers.  
24 Have a good day. And I waved bye to all my employees on the  
25 way out and said enjoy your coffee.

1 Q. Marcus, were you ever told that the employee contact  
2 information was confidential information?

3 A. Never.

4 Q. And were you ever told that the DCRs were confidential  
5 information?

6 A. Never, because those have -- since I started at the  
7 company, we've always shared in that GroupMe, all the time.  
8 Like, my first manager that I had, Nicholas Toller (phonetic)  
9 was the one that actually made me get the app so I could be in  
10 contact with everybody.

11 MR. GOODE: Nothing further, Judge.

12 JUDGE RINGLER: Okay.

13 UNIDENTIFIED SPEAKER: No questions.

14 JUDGE RINGLER: All right.

15 MR. BALSAM: Is there a Jencks statement?

16 JUDGE RINGLER: All right. So just let us know how  
17 long it is, and we'll figure out how long of a break.

18 MR. GOODE: Eight pages, Judge.

19 JUDGE RINGLER: Eight pages. So not too bad. Five  
20 after five, does that work?

21 MR. BALSAM: That's fine, Judge.

22 JUDGE RINGLER: Okay. All right. We'll reconvene  
23 until at five after five. So don't discuss your testimony with  
24 anyone. You're free to hang out, walk around, whatever.

25 (Brief recess at 4:52 p.m./Reconvene at 5:00 p.m.)

1 JUDGE RINGLER: Back on the record. And I'm  
2 assuming, it looked like Mr. Hayes was leaving. He didn't say  
3 anything, but I'm assuming he's --

4 MR. GOODE: My assumption, Judge.

5 JUDGE RINGLER: He's gone. Okay. Okay. All right.  
6 Let's go back on the record. All right. Ready.

7 MR. BALSAM: Thank you.

8 CROSS EXAMINATION

9 BY MR. BALSAM:

10 Q. Good afternoon.

11 A. Hi.

12 Q. When you started at Starbucks in 2019 at Transit French,  
13 you were issued a copy of the partner guide, correct?

14 A. I don't think so. I'm not going to lie.

15 Q. At some point in time during your employment, you had  
16 access to the partner guide?

17 A. Only certain parts that they would print off for me when I  
18 would ask about something.

19 Q. Okay. And your testimony is at no point in time during  
20 your employment were you informed as to the whereabouts of the  
21 partner guide?

22 A. Honestly no. If you ever knew Nick, he wasn't really the  
23 best.

24 Q. What is the partner hub?

25 A. That's basically where you would go in and look for, like,

1 the DCRs. Or if you were looking for your own time off, I  
2 think leave of absence, it was you could see your paid sick  
3 time and I think vacation time is mainly the things I used it  
4 for.

5 Q. Okay. And is the partner guide available on the partner  
6 hub?

7 A. I think so. I'm not sure. I also never really went for  
8 it.

9 Q. Okay. You testified that the DCR is kept in the store,  
10 and everyone can see them.

11 A. Uh-huh.

12 Q. How do you know that everyone can see the DCRs?

13 A. Because they're right in a visible spot where even I if I  
14 was a customer and I was looking through the pastry case,  
15 that's glass. You can see it.

16 Q. If the DCRs are available, or are located in a spot where  
17 everyone can see them, why did you give it to Connor?

18 A. Because the union requested them.

19 Q. At the time that Connor had asked you to provide him with  
20 a copy of the DCR, Connor was no longer employed by Starbucks,  
21 correct?

22 A. Yes. But he's still a part of the union.

23 Q. Okay. And it's your testimony that the union is part of  
24 Starbucks? Is that your testimony?

25 A. Yeah, because that's what I was told.

1 Q. Who told you that?

2 A. Both the union, NLRB, and even most Starbucks partners.  
3 Even my ex-manager.

4 Q. Prior to you providing Connor with a copy of the DCR and a  
5 picture of the partner information, do you know if the union  
6 ever provided an information request to Starbucks for this  
7 information?

8 A. Can you repeat the question one more time? Sorry.

9 Q. Sure. Prior to you handing over to Connor the DCR and  
10 picture of the partner information, are you aware if whether or  
11 not the union asked Starbucks for this information?

12 A. Not that I'm under -- aware. Aware, sorry. Aware.

13 Q. Did you tell your manager that you were handing over to  
14 Connor a copy of the DCR and a picture of the partner  
15 information?

16 A. No.

17 Q. Why not?

18 A. Never had to tell her before.

19 Q. So your testimony is that prior to the date in which you  
20 handed Connor a copy of the DCR and the partner information,  
21 that you had done that in the past?

22 A. No.

23 Q. So why would you have had a reason to notify your manager  
24 if you've never done that before?

25 A. Because I was never told I was supposed to.

1 Q. So prior to the date in which you handed to Connor that  
2 information, you had actually never turned over information  
3 like that to an outside party, correct?

4 A. No, because they wouldn't be part of Starbucks.

5 Q. And just so I'm clear, your basis for doing this was  
6 because you believe that the union is part of Starbucks?

7 A. Yeah. I don't believe it is because it got voted in.  
8 That's why we voted.

9 Q. And just so I'm clear, you voluntarily resigned your  
10 position with Starbucks, correct?

11 A. Yes.

12 MR. BALSAM: Nothing further, Judge.

13 JUDGE RINGLER: Okay. Redirect?

14 MR. GOODE: I don't have anything, Judge.

15 JUDGE RINGLER: Okay. You are excused.

16 THE WITNESS: Okay.

17 JUDGE RINGLER: Thank you very much for your  
18 testimony. You can leave that there. Please don't discuss  
19 your testimony. And once again, thanks for your cooperation.

20 THE WITNESS: Yeah. No problem. I'm glad I was able  
21 to get here.

22 JUDGE RINGLER: Me, too. All right.

23 THE WITNESS: I appreciate it.

24 JUDGE RINGLER: All right. Yes. Thank you. All  
25 right.



1 MR. GOODE: Judge, for the record, instead of  
2 bringing in another stack of papers, I'd like to offer for the  
3 record that General Counsel's 81 which is the highlighted  
4 portions of the KLJD for Allegra Anastasi that's been rejected.

5 JUDGE RINGLER: Okay.

6 MR. GOODE: We believe that that same KLJD with  
7 highlights respective to Del Chip employees, and what we  
8 believe shows animus towards Del Chip employees, unionized  
9 employees, is also applicable to Connor Mauche and Marcus  
10 Hopkins.

11 JUDGE RINGLER: Okay.

12 MR. BALSAM: And, Judge, again we object to the  
13 introduction of any of that into this proceeding.

14 JUDGE RINGLER: He's just indicating that he believes  
15 the relevance of 81 is not limited to Anastasi. It's to all  
16 Del Chip employees and it demonstrates union animus. Okay.  
17 Thank you, as well. So it's not a new exhibit. It's already  
18 in the rejected exhibit folder. And that's GC-81 for the  
19 record is what we were referring to.

20 MR. GOODE: Yes.

21 JUDGE RINGLER: Okay. Perfect.

22 MR. GOODE: Thank you, Judge.

23 JUDGE RINGLER: I think your highlighter might have  
24 gotten tired.

25 MR. GOODE: Yeah. And the printer, Judge.

1 JUDGE RINGLER: And the printer. Maybe the printer,  
2 as well. There you go. Okay. Well, thanks.

3 MR. GOODE: All right. Judge, we will recall Jovan  
4 Draves to the limited purpose of playing his termination audio  
5 recording.

6 JUDGE RINGLER: All right. I appreciate your  
7 cooperation with resolving an issue, once again.

8 MR. GOODE: And just for the record, Judge, Jovan's  
9 termination recording is marked for purposes of identification  
10 as GC Exhibit 99.

11 (General Counsel's Exhibit 99 identified.)

12 JUDGE RINGLER: Okay. We can go off for just a  
13 minute while he's getting Mr. Draves back again.

14 (Brief recess at 5:07 p.m./Reconvene at 5:07 p.m.)

15 JUDGE RINGLER: All right. Perfect. We've got Jovan  
16 Draves back on the stand. I'll remind you, you're still under  
17 oath. We'll ask you a couple of additional questions. Go  
18 ahead, Counsel.

19 Whereupon,

20 JOHN DRAVES,  
21 was recalled as a witness having been previously duly sworn,  
22 was examined and testified as follows:

23 MR. GOODE: And just pausing, Judge, to make sure  
24 it's -- I think we're emailing it to the parties right now.

25 JUDGE RINGLER: Okay. Very good.

1 MR. GOODE: Okay.

2 DIRECT EXAMINATION

3 BY MR. GOODE:

4 Q. So, Jovan, there was testimony in your initial part of  
5 your testimony that you recorded your termination conversation  
6 with Kae. Is that -- you recall that part of your testimony?

7 A. Correct.

8 Q. Okay. And we might have covered this, but I'll do it  
9 quickly again. How did you make that recording?

10 A. I had walked up to the table and I set my phone down on  
11 the table. And at that point, I had already started recording.  
12 And I didn't announce it or anything.

13 Q. Okay. What did you use to record that conversation?

14 A. My personal cell phone.

15 Q. Okay. And what type of phone was it?

16 A. It is a Samsung Galaxy.

17 Q. Okay. And I think you testified that you sent that to the  
18 General -- to NLRB. Do you remember how you sent that to the  
19 NLRB?

20 A. I believe it was through email.

21 Q. Okay. Now the recording that you sent, was it edited in  
22 any way?

23 A. No.

24 Q. And to the best of your recollection, was it a full and  
25 accurate recording of your conversation with Kae?

1 A. Correct. It started before the conversation took place,  
2 and ended after the conversation took place.

3 Q. Okay. If we play that recording for you, would you be  
4 able to identify it?

5 A. Uh-huh.

6 Q. Okay. I'm sorry, just is that a yes?

7 A. Oh, yeah. Sorry.

8 MR. GOODE: Okay. We are now, Judge, going to play  
9 what has been marked for purposes of identification as GC  
10 Exhibit 99.

11 JUDGE RINGLER: Okay.

12 (Audio played at 5:09 p.m. to 5:09 p.m.)

13 MR. BALSAM: Abby, can you tell me what --

14 UNIDENTIFIED SPEAKER: Six seconds.

15 MR. GOODE: Okay. Stopping at six seconds.

16 BY MR. GOODE:

17 Q. Jovan, did you recognize that voice?

18 A. Yes.

19 Q. And whose voice is that?

20 A. That is Kae.

21 MR. GOODE: Okay.

22 (Audio played at 5:09 p.m. to 5:09 p.m.)

23 MR. GOODE: We're stopping at nine seconds.

24 BY MR. GOODE:

25 Q. Jovan, we just heard a second voice. Whose voice is that?

1 A. That is my own.

2 MR. GOODE: Okay.

3 (Audio played at 5:09 p.m. to 5:11 p.m.)

4 MR. GOODE: So I'm stopping at 1:56.

5 BY MR. GOODE:

6 Q. Jovan, did you recognize any additional voices there?

7 A. Yes. It was at the end when I announced that I had been  
8 fired. At that point, I had made my way to the back to collect  
9 my things. And the one that said wait, what, was former  
10 supervisor I believe Dominic. And then there was another  
11 person that gasped. I believe that was Najee (phonetic).

12 MR. GOODE: Okay.

13 (Audio played from 5:12 p.m. to 5:12 p.m.)

14 MR. GOODE: Stopping at 2:03.

15 BY MR. GOODE:

16 Q. I think I heard the word you're -- or --

17 A. You're being serious. That was Najee.

18 Q. Najee?

19 A. Again, yeah.

20 Q. Okay. Thank you.

21 (Audio played at 5:12 p.m. to 5:13 p.m.)

22 BY MR. GOODE:

23 Q. Jovan, was that the full recording of your conversation  
24 with Kae on the day of your separation?

25 A. It was, yes.

1 Q. Okay. Again, once again, did you edit that recording in  
2 any way?

3 A. I did not.

4 MR. GOODE: Okay. Judge, we offer GC-99 into the  
5 record.

6 JUDGE RINGLER: Any objection to 99?

7 MR. BALSAM: No objection.

8 JUDGE RINGLER: All right. 99's admitted.

9 (General Counsel's Exhibit 99 admitted into evidence)

10 BY MR. GOODE:

11 Q. Jovan, I'm going to show you what's already into evidence  
12 as Respondent's Exhibit 35. It's the notice of separation. We  
13 heard in the recording you I guess disputing the dates of your  
14 final written warning.

15 A. Correct.

16 Q. As you look at this document now, do you see that you did  
17 have a final written warning on March 17th?

18 A. Correct. I do.

19 Q. Okay. Had more than six months passed though from the  
20 time you received this final written warning to your notice of  
21 separation?

22 A. Yeah.

23 MR. GOODE: I have no further questions, Your Honor.

24 JUDGE RINGLER: Okay. Anything additional on cross,  
25 or are you squared away?

1 MR. BALSAM: We're squared away, Judge. Thank you.

2 JUDGE RINGLER: Okay. Thank you as well. Once  
3 again, you are excused. Thank you, as well --

4 THE WITNESS: Thank you.

5 JUDGE RINGLER: -- for your cooperation. All right.  
6 So any more GC witnesses?

7 MR. GOODE: We have no more witnesses, Your Honor.

8 JUDGE RINGLER: All right. So just a couple little  
9 housekeeping things. So I think we're resolved with respect to  
10 the subpoena issue regarding the recording. So that is  
11 terrific. I know I've got a petition to revoke in front of me  
12 involving various requests that were made of the union. I'm  
13 going to get a reply from respondent. Just refresh me on the  
14 date. May?

15 MR. BALSAM: I believe you said May 3rd.

16 JUDGE RINGLER: May 3rd? Okay.

17 MR. BALSAM: I believe that's when your email --

18 JUDGE RINGLER: Yeah. No, whatever the email says is  
19 the date. So I will look forward to that then. I'll rule  
20 after that. And that will be good timing-wise obviously before  
21 we come back again. There's an issue with the redacted  
22 document that respondent provided to the GC. Did you folks get  
23 to talk about that? Is that worked out?

24 MR. BALSAM: It's an issue of privilege, Judge, as I  
25 understand it.

1 JUDGE RINGLER: Right.

2 MR. BALSAM: Right. So we'll be submitting a letter  
3 brief to you this evening about that.

4 JUDGE RINGLER: ok

5 MR. BALSAM: Counsel for the General Counsel's  
6 unwilling to return the document based on our assertion of  
7 privilege. So we'll need you to make a ruling.

8 JUDGE RINGLER: Okay. So can you folks get me  
9 something by, if I get it tonight, Friday?

10 MR. GOODE: Oh, definitely --

11 JUDGE RINGLER: That work?

12 MR. GOODE: -- by Friday, Judge.

13 JUDGE RINGLER: Okay.

14 MR. GOODE: I'll shoot for -- I'll be traveling  
15 tomorrow.

16 JUDGE RINGLER: Yeah, that's what I kind of --

17 MR. GOODE: I'll shoot --

18 JUDGE RINGLER: -- put in a little push factor.

19 MR. GOODE: -- for Thursday.

20 JUDGE RINGLER: Okay.

21 MR. GOODE: But, yeah.

22 JUDGE RINGLER: All right. So Friday we'll get  
23 something on that. Then I'll rule on that as well, as well as  
24 the petition to revoke. So now the GC is resting, correct?

25 MR. GOODE: We're going to --



1 JUDGE RINGLER: But you're resting subject to review  
2 of the discovery materials.

3 MR. GOODE: Yeah. I mean, I want to make --

4 JUDGE RINGLER: Go ahead.

5 MR. GOODE: I want to make clear though that we -- we  
6 could have to recall -- we could have to call witnesses based  
7 on our review of the documents, Judge. So, you know, I  
8 hesitate to say that we're resting. But I mean, our intention  
9 at this break is to certainly just focus on the documents.

10 JUDGE RINGLER: Right. I think it's just semantics  
11 at this point. So the exercise is you're reviewing documents.  
12 And you're -- when you return, you're either going to offer  
13 some of these documents or call a witness --

14 MR. GOODE: Okay.

15 JUDGE RINGLER: -- who will testify about these  
16 documents. So it's limited to that. I'm not -- I'm making  
17 sure that we're on the same page, that we're clear, that we're  
18 not calling additional employee witnesses or witnesses of that  
19 nature. Is that correct?

20 MR. GOODE: Well, I don't want to discount the  
21 possibility of having to call employee witnesses based on our  
22 further review of the documents, Judge. So we don't -- again,  
23 we haven't --

24 JUDGE RINGLER: Right.

25 MR. GOODE: We haven't read every word in the

1 documents. We have an idea of what's in there. We have an  
2 idea of what is, you know, what we might -- we started to have  
3 an idea of what we might need. But I just want to make sure  
4 that if I have to recall, or call, recall any employee witness  
5 based on the documents, that I have that ability.

6 JUDGE RINGLER: All right. And I think that will be  
7 fine.

8 MR. GOODE: Okay.

9 JUDGE RINGLER: Now -- one second, we'll jump to your  
10 question. I think during a break we talked about a deadline  
11 for you to do that so that we have advanced notice of what's  
12 going on. And what is --

13 MR. GOODE: I think you said May 8th, Your Honor.

14 JUDGE RINGLER: May 8th? Okay. And that's the  
15 Friday, I take it?

16 MR. GOODE: No, I think it's --

17 JUDGE RINGLER: It's a Monday? Okay.

18 MR. GOODE: -- a week before we --

19 JUDGE RINGLER: Okay. Yeah, a week before.

20 MR. GOODE: Yeah.

21 JUDGE RINGLER: So May 8th you'll advise everyone  
22 where you stand with that. And email to CC everyone is fine.  
23 Yes.

24 MR. BALSAM: Judge, we have a very serious problem  
25 with what is being proposed here, for a variety of reasons.

1 One, representations were made to this Judge when we produced  
2 our documents on Monday that it would take days and days and  
3 days to review these documents. Somehow, the counsel for the  
4 General Counsel was able to complete its entire review of the  
5 documents you produced at the end of the week within a day.

6 And so this -- it's concerning to us that there is  
7 ability for the counsel for the General Counsel to potentially  
8 call brand new witnesses that they could have theoretically  
9 called during their case in chief in the last week and a day,  
10 in three weeks' time. That's unfair. It's prejudicial to us.  
11 We were not given more time to prepare this case. They are  
12 being given. So we object to that.

13 Moreover, we have witnesses flying in from all over  
14 the country to testify on May 15th. This notion that the  
15 counsel for the General Counsel theoretically can call  
16 witnesses to continue their case in chief on Monday, maybe  
17 Tuesday, is problematic for us because again, we have witnesses  
18 coming in. This is a herculean effort to get all the witnesses  
19 we need to come in on these dates to testify on these dates.  
20 They're not here. They're not local like every single person  
21 who testified here except for those who testified from  
22 Rochester, which again is only an hour away.

23 Every one of our witnesses, with the exception of a  
24 few who are located in Buffalo, will be flying in. So we have  
25 no wiggle room here. And so if you're going to allow them to

1 call additional witnesses on those days, then our case in chief  
2 should be pushed out so we can regroup, get all the dates --

3 JUDGE RINGLER: I'm not -- I understand your  
4 position. I'm not willing to push out your case in chief.

5 MR. BALSAM: They should be doing this in the recall  
6 --

7 JUDGE RINGLER: They're going to --

8 MR. BALSAM: -- their rebuttal.

9 JUDGE RINGLER: We're going to get guidance a week  
10 before. Now I can't speak to anybody's calendars, but that  
11 should suffice in terms of that. I don't anticipate we're  
12 going to get days and days. I think at most we're getting  
13 maybe hour, a couple hours of some testimony, I would imagine.  
14 And maybe none.

15 MR. GOODE: Yeah. I can't foresee --

16 JUDGE RINGLER: But until you, you know, until you  
17 look at all the documents, which were due Monday but we've been  
18 flexible in terms of provision of the documents, we've extended  
19 that, I'll allow you to do that. That will be more than fine.

20 But I think that respondents should have the full  
21 expectation that the great likelihood is that after a couple  
22 hours of dealing with whatever the GC has, which I imagine will  
23 probably be mostly documents, you will make your opening  
24 statement. Then I would strongly believe that after lunch on  
25 that date, you'll present your first witness.

1 MR. BALSAM: Again --

2 JUDGE RINGLER: So plan --

3 MR. BALSAM: Again, Judge --

4 JUDGE RINGLER: Plan accordingly.

5 MR. BALSAM: Again, Judge. I'll repeat it again. We  
6 have witnesses who are coming in. It has been very difficult  
7 to schedule all of our witnesses on the timeframe that we have.  
8 Again, they're not here in Buffalo. They're coming from west  
9 coast --

10 JUDGE RINGLER: I understand.

11 MR. BALSAM: -- south, everywhere. And so it's very  
12 problematic that the counsel for the General Counsel, who has  
13 known about this case for weeks and months, is now being  
14 permitted potentially to call witnesses that they could have  
15 called this week, but chose not to for whatever reason, in  
16 three weeks' time.

17 JUDGE RINGLER: I think the only reason, and this  
18 would be the only acceptable reason from my standpoint, that  
19 they haven't called these witnesses is because they haven't  
20 fully reviewed all of the voluminous documents that they  
21 received from Starbucks. So if a witness has no connection to  
22 any of the documents, obviously that's a witness that I'm  
23 saying on the record I'm not going to accept. But if it's a  
24 witness that's going to testify about a business record or  
25 something and the record is ambiguous, then certainly I would

1 permit that.

2           If you choose to ask an employee about a business  
3 record, then I understand why you're kind of reserving and  
4 saying hey, might call an employee. But I would assume that  
5 that would be the less likely scenario. I'm hoping, what I'm  
6 hoping for is Judge, here are these documents. Respondent  
7 agrees they're business records. They don't object. Here they  
8 are. And when they call their various witnesses, as part of  
9 your cross you can certainly ask their witnesses about that  
10 document. And I think probably that's what's going to occur.

11           MR. GOODE: And I would just note for the record,  
12 Judge, that we've already identified some documents that  
13 haven't been produced yet. I'm talking about time punches --

14           MR. BALSAM: That's one set of documents, Judge.

15           MR. GOODE: It doesn't matter. We still -- I have  
16 had eyes on documents.

17           JUDGE RINGLER: I appreciate that.

18           MR. GOODE: But --

19           JUDGE RINGLER: I'm not questioning your exercise --

20           MR. GOODE: Well, counsel for respondent is. So I'm  
21 obligated to respond on the record. So did the notion that we  
22 could review 1,700 documents have any understanding of, you  
23 know, respectfully, there's no index being provided. So we  
24 need to look at --

25           JUDGE RINGLER: I understand.

1           MR. GOODE: -- the documents compared to our  
2 subpoenas. Is there anything not there. I mean, we haven't  
3 been able to look at that, you know, conduct that exercise yet,  
4 Judge. So --

5           JUDGE RINGLER: I've got it.

6           MR. GOODE: -- yeah. I mean, and I --

7           JUDGE RINGLER: And I think that what you folks can  
8 have, you know, you're going to let us know on the 8th, you  
9 know, where we stand. You can certainly have a conversation  
10 with respondent before that, that I'd like to ask so-and-so  
11 some questions. But if you're going to call that person during  
12 your case in chief, I'll hold off on doing that. I think you  
13 two can collaborate and it will work out to your satisfaction.  
14 It's a matter of a phone call, I think.

15          MR. BALSAM: Judge, the counsel for the General  
16 Counsel should not be able to call anyone that they could have  
17 called but chose not to call during this week and a day.  
18 That's just completely --

19          JUDGE RINGLER: Yeah. I'm allowing --

20          MR. BALSAM: -- unfair and prejudicial to us.

21          JUDGE RINGLER: -- them to rest, though, later than  
22 today is what I'm saying to you. Right? I could even allow  
23 them to rest when we come back on the Monday. I'm trying to  
24 limit it so that you could plan your case out. So --

25          MR. BALSAM: Well, note my objection to this scheme

1 and this plan because I don't think it's fair, and I think it's  
2 highly prejudicial to Starbucks.

3 MR. GOODE: And I would note for the record, Your  
4 Honor, Your Honor could have told them that they had to start  
5 their case tomorrow.

6 JUDGE RINGLER: Right. Exactly.

7 MR. GOODE: Like, so they're getting three weeks to  
8 prepare for their case, having heard our case already --

9 JUDGE RINGLER: And candidly --

10 MR. GOODE: -- Judge.

11 JUDGE RINGLER: -- I did that as a courtesy because  
12 of all the issues with hey, you know, there's scheduling, we  
13 need a delay. And so I figured that would be an accommodation  
14 to you. So that was part of it. But anyway, I think at the  
15 end of the day, you'll present your case with limited  
16 disruption to your witnesses' lives. I understand there's  
17 pressure and, you know, your client, you know, might feel that  
18 hey, I need to be here Monday, I've got to be somewhere else  
19 Tuesday. We'll do our best to accommodate everyone.

20 MR. BALSAM: I understand that, Judge. But it's  
21 interesting how the counsel for the General Counsel complains  
22 about the document production that they asked for, and that  
23 they're claiming that they don't have enough time to review it.  
24 Again, we sought a continuance of this case. They rejected  
25 that opportunity. It was rejected by the Division of



1 Administrative Law Judges. Now they're complaining about the  
2 documents they asked for?

3 JUDGE RINGLER: All right.

4 MR. GOODE: We're complaining about the --

5 JUDGE RINGLER: Yeah. So we don't need to --

6 MR. GOODE: We're trying to have all week --

7 JUDGE RINGLER: We don't need to go back and forth.

8 We've got a plan set. Last question that I had, or Post-It  
9 that I had, I guess there's an issue with the duration of  
10 certain documents you mentioned this morning. You thought it  
11 should go back to August, if I'm remembering correctly, but you  
12 only got to June or vice versa, whatever it was.

13 MR. GOODE: We got time punches July, beginning July,  
14 from what I can tell, July 1, 2021. Our subpoena went back to  
15 August of 2020.

16 JUDGE RINGLER: Got you. Got you.

17 MR. GOODE: So I believe we're missing time punches  
18 from August 20th through July 1, 2021. And I would request  
19 Your Honor require respondent, by a certain date, to provide  
20 those to us.

21 JUDGE RINGLER: Yeah. So that's important. They've  
22 requested a certain duration. I've tasked them with looking at  
23 these documents and creating some kind of an Excel spreadsheet.  
24 We're going to get further delays that you're complaining about  
25 if we don't get those right away. Have you folks looked into

1 why they haven't gotten --

2 MR. BALSAM: Judge, honestly --

3 JUDGE RINGLER: -- that?

4 JUDGE RINGLER: -- no, we have not. And we will do  
5 that today. I can get it today. I've been taxed with dealing  
6 with other issues.

7 JUDGE RINGLER: Okay. So have a conversation  
8 tomorrow or the day after, but this week about that. And  
9 please provide that to them. I'm directing you to provide  
10 that. I've already done that. I don't think I need to do that  
11 again. I understand you're doing everything in good faith, and  
12 I appreciate that. So let's get those documents all squared  
13 away, and we'll go from there.

14 It's been a long week, week and a half, whatever it's  
15 been. And we'll see you all when we reconvene. Now, let me  
16 make sure I put on the record our dates that we're coming back  
17 so we're all clear about that. We'll reconvene again on May  
18 the 15th at nine o'clock, same hearing room, same everything in  
19 Buffalo, New York. And at that point, we'll deal with the  
20 little piece that's left of the GC's case, and then we'll  
21 commence with Respondent's case in chief.

22 My expectation is at most the GC's part of this  
23 should probably only take a couple more hours. Then we'll do  
24 your opening. And then you should expect that your first  
25 witness will be called shortly before we begin a lunch break,

1 or shortly after, for planning purposes. So we should be good  
2 on that front. Okay?

3 MR. BALSAM: Understood.

4 JUDGE RINGLER: Okay. Good deal. Off the record  
5 until May 15th.

6

7 (Whereupon, at 5:26 p.m., the hearing in the above-entitled  
8 matter was recessed to reconvene on Monday, May 15, 2023, at  
9 9:00 a.m.)

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## CERTIFICATION

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 3(, in the matter of STARBUCKS CORPORATION, Case No. 03-CA-295810, at National Labor Relations Board, on April 18th, 2023, was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the recording from the hearing, that the exhibits are complete and no exhibits received in evidence or in the rejected file are missing.

*Rhett Baker*

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Rhett Baker

<b>A</b>	1265:5,13,18; 1266:5,9,23;1267:18; 1268:23;1269:23; 1270:7,16;1271:6; 1272:12;1273:14; 1280:17;1281:14,23; 1282:2,8;1285:25; 1286:14;1287:15,22; 1302:22;1303:4,7; 1326:10;1354:14; 1365:18;1366:11; 1370:7	1268:4;1273:25; 1274:5;1275:5; 1297:13;1299:4; 1309:13;1327:15; 1347:14;1368:6; 1380:16;1394:6	1338:5;1344:12; 1349:22;1359:21; 1367:4;1368:3,19; 1370:12;1374:2,4; 1378:14;1386:2; 1387:2,25;1399:14, 25;1400:2,5,7,12,15, 19;1407:19;1408:12; 1409:7,13;1410:9; 1412:19;1413:1,1; 1414:3,21;1416:22; 1418:17,22;1420:1,3, 5,5,8;1423:24; 1425:11,17	1246:24;1247:7,12, 22;1249:7,10; 1250:25;1251:7,15; 1252:10;1253:23; 1254:6,17;1255:15; 1259:2;1260:9,22; 1263:4;1264:23; 1268:7,8;1269:6; 1270:11;1273:14; 1285:8,20;1287:3; 1300:1,4,7,10; 1366:22;1408:4
<b>Abby (1)</b> 1411:13	<b>actions (6)</b> 1268:22;1280:21; 1286:2,10;1366:12; 1372:4	<b>admitted (31)</b> 1226:11,18; 1255:13;1260:6,7; 1264:21;1267:8; 1268:5;1274:7; 1275:6;1295:17,18; 1297:14;1299:5; 1309:16;1326:16; 1327:16,21;1336:21, 22;1368:7;1376:20, 21;1377:18,19; 1379:6,6;1380:17; 1394:7;1413:8,9	<b>against (6)</b> 1371:7,14,16; 1373:9,23;1399:10	<b>A-L-L-E-G-R-A (1)</b> 1247:8
<b>abide (3)</b> 1270:21;1348:18; 1375:13	<b>active (2)</b> 1371:6;1373:23	<b>adopted (4)</b> 1384:23,24;1385:3, 4	<b>agent (1)</b> 1384:14	<b>allow (23)</b> 1218:19;1219:15; 1225:2;1234:13; 1240:16,16;1249:15; 1259:9;1278:20; 1299:14;1318:15; 1326:9,11,15; 1327:21;1336:20; 1337:15;1339:6; 1346:5;1371:12; 1418:25;1419:19; 1422:22
<b>ability (3)</b> 1220:21;1417:5; 1418:7	<b>activity (6)</b> 1249:11;1292:23; 1365:8,10;1391:16,19	<b>advance (3)</b> 1216:12;1283:19; 1296:6	<b>aggressive (3)</b> 1328:20;1342:9; 1359:22	<b>allowed (3)</b> 1306:1;1315:9; 1371:25
<b>able (14)</b> 1214:23;1217:23; 1222:19;1258:17,19; 1280:5;1304:19; 1332:18;1349:1; 1407:20;1411:4; 1418:4;1422:3,16	<b>actual (2)</b> 1243:15;1367:22	<b>advanced (1)</b> 1417:11	<b>ago (1)</b> 1231:10	<b>allowing (1)</b> 1422:19
<b>above (3)</b> 1255:7,8;1377:12	<b>actually (11)</b> 1232:17;1233:18; 1235:6;1238:16; 1239:7;1242:10; 1252:20;1261:1; 1360:14;1403:9; 1407:2	<b>advertisement (1)</b> 1258:6	<b>agree (3)</b> 1221:18;1268:12; 1353:19	<b>almost (4)</b> 1250:14;1253:7; 1261:11,12
<b>above-entitled (2)</b> 1209:12;1426:7	<b>add (3)</b> 1321:24;1362:19; 1383:11	<b>advised (1)</b> 1370:4	<b>agreed (1)</b> 1348:18	<b>alone (1)</b> 1218:21
<b>absence (1)</b> 1405:2	<b>added (1)</b> 1354:22	<b>advisement (1)</b> 1388:10	<b>agrees (1)</b> 1421:7	<b>along (2)</b> 1297:4;1317:5
<b>absolutely (6)</b> 1222:23;1245:11, 11;1369:25;1393:19; 1399:18	<b>adding (2)</b> 1276:14,17	<b>affidavit (15)</b> 1241:16;1242:12, 15;1243:11,20; 1244:1;1300:15; 1346:14,15,16; 1374:11;1381:6; 1382:6;1383:4; 1384:10	<b>ahead (20)</b> 1234:13;1249:15, 23;1250:19,20; 1251:4;1252:7; 1256:2;1259:9; 1277:25;1278:20; 1293:4;1299:14; 1311:6;1337:15; 1339:6;1371:12; 1394:10;1409:18; 1416:4	<b>always (11)</b> 1242:20;1243:1; 1277:1;1283:4,5; 1305:16;1345:17; 1392:4,22;1396:13; 1403:7
<b>accept (1)</b> 1420:23	<b>addition (2)</b> 1276:7;1378:10	<b>affidavits (1)</b> 1384:2	<b>alarm (1)</b> 1337:16	<b>am/Reconvened (5)</b> 1236:22;1245:18; 1262:23;1289:25; 1301:1
<b>acceptable (1)</b> 1420:18	<b>additional (14)</b> 1270:22;1275:10, 25;1277:13;1278:17, 22;1280:1;1323:17; 1380:13;1409:17; 1412:6;1413:24; 1416:18;1419:1	<b>afternoon (10)</b> 1216:7;1218:11; 1227:16,19;1228:1; 1229:5;1257:3; 1301:6;1374:22; 1404:10	<b>alert (5)</b> 1214:11,18; 1218:13;1220:14; 1258:19	<b>ambiguous (2)</b> 1221:23;1420:25
<b>access (2)</b> 1356:8;1404:16	<b>address (2)</b> 1216:14;1382:2	<b>afterwards (1)</b> 1234:25	<b>ALJ (1)</b> 1226:8	<b>Amherst (1)</b> 1312:18
<b>accommodate (1)</b> 1423:19	<b>addressed (2)</b> 1351:15,16	<b>again (63)</b> 1214:18;1216:22; 1225:17;1245:12,14; 1251:18;1253:20; 1275:8;1278:1; 1285:15;1288:4; 1292:23;1301:21; 1309:2;1315:21,22; 1320:14;1323:24; 1325:18;1326:5;	<b>ALJ-2 (1)</b> 1226:11	<b>among (1)</b> 1289:4
<b>accommodation (1)</b> 1423:13	<b>addressing (1)</b> 1348:22		<b>ALJ-3 (1)</b> 1226:11	<b>amount (4)</b> 1276:17,19,20; 1283:7
<b>accompanied (1)</b> 1297:4	<b>ADMINISTRATIVE (3)</b> 1209:13;1261:19; 1424:1		<b>ALJD (2)</b> 1288:25;1362:10	<b>Anastasi (8)</b> 1247:1,7,7,12; 1300:1;1366:22; 1408:4,15
<b>according (2)</b> 1265:8;1382:24	<b>admission (6)</b> 1255:9;1295:13; 1297:11;1298:24; 1367:25;1394:1		<b>allegation (1)</b> 1308:9	<b>A-N-A-S-T-A-S-I (1)</b> 1247:8
<b>accordingly (1)</b> 1420:4	<b>admit (18)</b> 1226:8;1227:13; 1255:12;1260:3; 1264:20;1267:7;		<b>allege (1)</b> 1359:25	
<b>account (1)</b> 1254:1			<b>allegedly (1)</b> 1386:13	
<b>accurate (4)</b> 1266:20;1326:3; 1336:8;1410:25			<b>Allegra (33)</b>	
<b>acknowledge (7)</b> 1266:23;1271:17, 18;1356:20,25; 1372:13;1375:11				
<b>acknowledged (2)</b> 1370:4;1371:2				
<b>acknowledging (3)</b> 1264:14;1348:12, 17				
<b>acronym (1)</b> 1366:8				
<b>across (1)</b> 1366:12				
<b>action (31)</b>				

<b>and/or (2)</b> 1305:3;1378:14	1256:13;1325:25; 1383:4	<b>assuming (6)</b> 1262:9;1300:13; 1309:5;1312:1; 1404:2,3	<b>awake (1)</b> 1305:16	1309:1
<b>Anderson (3)</b> 1233:17,24; 1238:20	<b>approximate (1)</b> 1366:17	<b>assumption (2)</b> 1227:6;1404:4	<b>aware (21)</b> 1214:8;1250:25; 1263:21;1273:2; 1279:15;1296:15; 1300:3,3,5,8;1304:11, 21;1305:24;1383:14, 19;1385:20;1387:9; 1406:10,12,12,12	<b>BALSAM (193)</b> 1216:9,16,21; 1219:13,15;1220:17, 25;1221:8,11;1222:7, 10,17;1223:13,21; 1224:20,22;1226:1, 20;1231:14;1236:24; 1237:1;1240:21; 1243:23,25;1244:18; 1245:20;1246:8,12, 17,19,21;1247:1; 1249:13,20;1250:17; 1251:2;1252:6,9; 1253:9;1255:11; 1256:11;1259:8; 1260:5;1262:14,17, 19,25;1263:3; 1264:16,22;1267:4,9, 25;1268:6;1273:13; 1274:1,8;1275:1,7; 1277:19,22;1278:3, 21;1282:15,17,19,20; 1285:4;1288:14; 1289:6;1292:19; 1295:16;1296:5,8; 1297:12;1299:1,3,13; 1300:19,21;1301:5; 1303:21;1304:5; 1306:5;1309:8,10,12; 1312:9;1317:25; 1318:8;1319:5,20,23; 1320:3,13;1322:8,16; 1323:4,7,15;1324:7,9; 1325:10,18,24; 1326:2,13;1327:2,12, 14;1330:19;1331:1; 1336:16,18;1337:10; 1339:5,11;1343:22; 1344:5;1346:2,12,21; 1347:5,7,10,12,17,22, 24;1348:2;1350:13; 1354:24;1361:6,8; 1362:5,21;1368:2,5; 1371:11;1374:16,21; 1376:17,22;1377:14, 20;1379:2,8,10; 1380:9,15,18;1382:9, 16;1383:13,18,21,25; 1384:6;1385:15,20, 22;1386:23;1387:21, 23;1394:3;1403:15, 21;1404:7,9;1407:12; 1408:12;1411:13; 1413:7;1414:1,15,17, 24;1415:2,5;1417:24; 1419:5,8;1420:1,3,5, 11;1421:14;1422:15, 20,25;1423:20; 1425:2;1426:3
<b>Angel's (1)</b> 1294:20	1345:9;1364:22; 1366:2,14;1372:20; 1390:19,25;1391:7, 11;1393:1	<b>attained (1)</b> 1230:24	<b>away (9)</b> 1258:8;1343:5; 1362:4;1372:5; 1413:25;1414:1; 1418:22;1424:25; 1425:13	
<b>animus (2)</b> 1408:8,16	<b>approximation (1)</b> 1239:25	<b>attendance (46)</b> 1255:2;1260:19; 1263:22;1264:10; 1265:4;1266:18; 1267:19;1269:3,7,17, 24;1270:17,21; 1272:15,24;1273:7, 16,18,22;1275:10,14, 21;1280:25;1282:7; 1286:1,21;1287:4; 1288:5,8,10;1289:3; 1303:2,5,13;1304:8, 12;1305:14;1306:1; 1365:14;1375:4,11, 13;1376:11;1378:16, 18,23	<b>B</b>	
<b>Anna (8)</b> 1339:25;1340:4; 1358:14,22,24; 1359:2,5,16	<b>apron (9)</b> 1250:5,7,18,21,23; 1334:24;1341:14; 1373:10;1392:10	<b>attention (15)</b> 1216:12;1231:19; 1256:4;1259:3; 1260:9;1286:4,20; 1297:16;1299:7; 1353:4;1368:11; 1372:16;1391:11; 1394:12;1400:25	<b>back (86)</b> 1214:4,6;1215:10, 11;1216:7;1217:10, 19;1219:6,8;1221:20; 1223:3;1225:2,4; 1235:9,15;1241:15, 20;1242:8,17; 1243:11;1245:22; 1259:2,2;1262:13,24; 1290:1;1301:2; 1315:5;1316:21,22; 1317:2;1320:14; 1322:19;1330:7; 1333:25;1334:2,3; 1341:1,3,3,17,18; 1342:18,23;1343:9, 21;1344:4,8;1347:1; 1351:11;1354:12; 1355:24;1356:1; 1357:16,18,19; 1358:5;1372:16,25; 1373:6,9;1374:1,1,4, 19;1384:20;1387:2,4; 1395:3,21,22,23; 1398:16;1400:8,12; 1404:1,6;1409:13,16; 1412:8;1414:21; 1422:23;1424:7,11, 14;1425:16	
<b>Anna's (1)</b> 1340:1	<b>area (2)</b> 1232:13;1242:13	<b>attire (1)</b> 1293:9	<b>background (2)</b> 1249:21;1312:5	
<b>announce (1)</b> 1410:12	<b>arguably (1)</b> 1383:2	<b>at-will (1)</b> 1244:12	<b>backpack (1)</b> 1392:11	
<b>announced (1)</b> 1412:7	<b>argue (1)</b> 1322:13	<b>audio (10)</b> 1373:7,11;1381:18; 1382:5;1409:4; 1411:12,22;1412:3, 13,21	<b>bad (2)</b> 1341:21;1403:19	
<b>answered (4)</b> 1250:17;1273:10; 1278:18;1317:25	<b>arguing (1)</b> 1330:9	<b>August (21)</b> 1215:11,16;1217:8; 1248:7,9,18;1262:1; 1271:10;1286:8,11, 12;1295:6;1305:18; 1337:6;1366:21; 1368:12;1376:8; 1391:12;1424:11,15, 18	<b>Bailey (16)</b> 1291:10,11,18; 1293:17;1294:8,19; 1301:10,13,17,20; 1302:1,6,23;1303:5,8; 1307:11	
<b>Anthony (1)</b> 1360:7	<b>around (16)</b> 1227:16;1231:12; 1260:25;1261:5; 1293:12;1312:13,25; 1313:7;1315:19; 1317:18;1346:16; 1366:4,15;1368:15, 18;1403:24	<b>available (9)</b> 1227:18;1243:17; 1298:5;1305:19; 1395:3,21,22;1405:5, 16	<b>ballot (1)</b> 1302:4	<b>bar (2)</b> 1371:24;1373:5
<b>anticipate (1)</b> 1419:11	<b>arrived (4)</b> 1316:13;1333:5; 1337:19;1340:10	<b>Ave (1)</b> 1364:8	<b>ballots (1)</b>	<b>barely (1)</b>
<b>anticipating (2)</b> 1227:1;1306:18	<b>Ashlynn (7)</b> 1236:11;1237:24; 1238:3,7;1239:1,12; 1240:3	<b>Avenue (1)</b> 1209:14		
<b>apologize (1)</b> 1331:22	<b>aside (3)</b> 1334:6,7,10	<b>avoid (1)</b> 1371:7		
<b>apologizing (2)</b> 1337:24;1342:6	<b>asleep (3)</b> 1370:21;1373:15, 19	<b>avoiding (1)</b> 1373:22		
<b>app (1)</b> 1403:9	<b>ASM (1)</b> 1237:23			
<b>appeal (1)</b> 1387:14	<b>assertion (1)</b> 1415:6			
<b>appear (1)</b> 1251:25	<b>assigned (3)</b> 1244:9;1280:10; 1301:16			
<b>appears (1)</b> 1323:9	<b>assistant (2)</b> 1236:7,10			
<b>applicable (2)</b> 1387:14;1408:9	<b>assume (3)</b> 1327:11;1386:21; 1421:4			
<b>applied (1)</b> 1242:2				
<b>Appreciate (8)</b> 1306:15;1319:25; 1326:8;1399:14; 1407:23;1409:6; 1421:17;1425:12				
<b>appreciated (1)</b> 1299:22				
<b>approach (1)</b> 1214:17				
<b>approached (1)</b> 1399:25				
<b>approaching (1)</b> 1373:9				
<b>appropriate (5)</b> 1246:8;1253:13;				

1322:11 <b>bargain (3)</b> 1296:2,12;1300:10 <b>bargaining (4)</b> 1296:13,14,15; 1366:13 <b>barista (11)</b> 1230:24;1231:3,22; 1257:7;1258:13; 1277:4,13;1292:6; 1313:5;1364:16; 1365:23 <b>baristas (3)</b> 1257:8;1278:5; 1284:5 <b>barista's (1)</b> 1365:24 <b>based (8)</b> 1224:24;1273:1,7; 1355:18;1415:6; 1416:6,21;1417:5 <b>baseline (1)</b> 1215:15 <b>basically (16)</b> 1218:7;1220:20; 1258:4;1266:13; 1371:16;1390:3; 1392:3;1395:25; 1397:24;1398:24; 1400:1;1402:1,12,13, 22;1404:25 <b>basis (1)</b> 1407:5 <b>Bates (1)</b> 1324:13 <b>be- (1)</b> 1323:24 <b>beanie (12)</b> 1332:3,14,18; 1340:10;1341:9; 1342:3;1345:6,12; 1360:17;1361:20,20, 23 <b>beanies (3)</b> 1332:15,18; 1344:12 <b>bearing (1)</b> 1359:17 <b>became (3)</b> 1242:14;1261:4; 1359:22 <b>become (6)</b> 1261:2;1293:21; 1300:3;1313:15,17; 1356:16 <b>becoming (1)</b> 1399:19 <b>beforehand (1)</b> 1301:12 <b>began (4)</b> 1231:6;1249:11; 1287:12;1349:21 <b>begin (10)</b>	1230:16;1247:24; 1248:16;1364:5; 1365:8;1366:6; 1390:7,11;1391:17; 1425:25 <b>beginning (4)</b> 1220:19;1286:23; 1288:6;1424:13 <b>begins (2)</b> 1256:4;1394:13 <b>begs (1)</b> 1388:6 <b>behind (1)</b> 1231:2 <b>believes (1)</b> 1408:14 <b>below (1)</b> 1320:20 <b>bench (2)</b> 1385:7;1387:13 <b>B-E-R-G (1)</b> 1229:16 <b>besides (3)</b> 1256:19;1334:14; 1373:1 <b>best (16)</b> 1214:23;1215:8,24; 1219:22;1228:17; 1229:4;1233:6; 1322:18;1326:4; 1336:11;1340:1,4; 1371:7;1404:23; 1410:24;1423:19 <b>better (3)</b> 1319:21;1321:14; 1327:4 <b>beyond (3)</b> 1362:19;1383:21; 1390:22 <b>big (2)</b> 1215:23;1224:15 <b>bigger (3)</b> 1321:25;1332:15, 16 <b>biggest (1)</b> 1215:1 <b>binging (1)</b> 1397:10 <b>bit (7)</b> 1227:17;1256:23; 1292:20;1297:22; 1322:7;1333:7; 1334:5 <b>Bits (1)</b> 1393:5 <b>black (1)</b> 1402:10 <b>block (1)</b> 1342:15 <b>blood (1)</b> 1402:21 <b>BOARD (13)</b> 1209:2,14;1238:17;	1241:17;1242:16; 1243:12;1381:3,15, 21;1382:11,17; 1384:14;1387:15 <b>boards (3)</b> 1258:6,8,9 <b>book (5)</b> 1258:21;1262:7; 1385:7;1387:13; 1402:18 <b>boss (1)</b> 1341:20 <b>both (13)</b> 1264:25;1280:5; 1287:25;1303:11,11, 13;1325:14;1329:20; 1354:8;1360:7; 1399:10;1401:21; 1406:2 <b>bottle (1)</b> 1247:3 <b>bottom (7)</b> 1267:1;1278:15; 1297:7;1320:23; 1324:14;1379:22; 1394:4 <b>box (7)</b> 1260:10;1268:7; 1286:4;1320:21; 1330:11,14;1394:16 <b>brand (1)</b> 1418:8 <b>break (12)</b> 1217:18;1218:20; 1247:4;1289:21; 1300:18;1369:23; 1383:7;1385:13; 1403:17;1416:9; 1417:10;1425:25 <b>breaks (1)</b> 1395:9 <b>Brief (15)</b> 1236:22;1245:18, 21;1262:23;1289:25; 1301:1;1306:22; 1346:25;1363:5; 1374:18;1386:3; 1389:3;1403:25; 1409:14;1415:3 <b>bring (4)</b> 1217:7;1220:23; 1322:16;1324:3 <b>bringing (4)</b> 1216:11;1243:16; 1323:20;1408:2 <b>broad (1)</b> 1223:9 <b>broader (1)</b> 1383:3 <b>broken (2)</b> 1234:9,15 <b>brought (1)</b> 1383:23	<b>Buffalo (11)</b> 1209:15;1214:4; 1248:8,9,15;1254:2; 1263:10,13;1418:24; 1420:8;1425:19 <b>bullet (9)</b> 1299:7;1337:5; 1338:14;1340:9; 1345:24,25;1370:14; 1372:12,17 <b>bulletin (1)</b> 1238:17 <b>bunch (1)</b> 1223:3 <b>business (16)</b> 1221:18,22;1223:7; 1224:3;1239:2,7,14; 1240:22,22;1243:1; 1326:12;1327:11; 1380:10;1420:24; 1421:2,7 <b>busted (1)</b> 1402:20 <b>butt (1)</b> 1402:20 <b>bye (1)</b> 1402:24	12;1359:22;1373:21; 1378:14;1416:18 <b>call-no (32)</b> 1338:15,19,22; 1339:4,17,19,20,22; 1340:2;1357:4,7,15; 1358:20,22,25; 1359:3,8,11;1370:1; 1372:13;1375:7,17, 20;1376:1,12,25; 1377:22;1378:1,8,10, 15;1379:13 <b>calls (1)</b> 1339:1 <b>came (12)</b> 1209:12;1299:22; 1334:3;1340:22; 1341:18;1349:8; 1351:5;1359:21; 1374:1;1394:23; 1396:13;1398:5 <b>cameras (1)</b> 1398:23 <b>campaign (6)</b> 1215:12;1286:9,15; 1287:1,12;1292:8 <b>can (102)</b> 1214:23;1215:7,8, 24;1216:7;1223:4; 1225:13,15;1232:14; 1233:6;1234:13; 1235:17;1238:6; 1244:20;1245:9; 1246:1;1247:5; 1249:15;1250:6; 1251:5,15;1252:2; 1253:20,24;1255:4, 15;1256:20;1257:14; 1258:3;1259:19; 1265:16;1268:23; 1277:24;1285:20; 1287:7,24;1288:19; 1289:21;1291:17; 1292:20;1293:6,10; 1294:14;1296:21; 1306:14,20;1307:5,6; 1310:2;1313:25; 1314:17;1319:6; 1321:19,25;1322:11, 14;1324:9;1327:4,8; 1339:21;1343:25; 1350:12;1362:25; 1363:6;1366:8,16; 1367:1,9;1369:24; 1371:9;1374:2; 1383:20;1384:21; 1385:1,6,8;1389:9; 1393:1,12;1395:4,21; 1396:6;1397:19,24; 1402:10;1405:10,12, 15,17;1406:8; 1407:18;1409:12; 1411:13;1415:8;
<b>C</b>				
<b>calendars (1)</b> 1419:10 <b>call (49)</b> 1220:6;1221:24; 1222:3,19;1223:10, 22;1224:7;1225:2; 1228:1,1,2;1229:10; 1232:23;1249:1; 1253:19;1255:22,23, 23;1256:2;1278:16; 1291:24;1309:21; 1338:23;1345:1; 1357:7,12,16,18,22; 1370:19,22;1371:3; 1373:15,20,21; 1416:6,13,21;1417:4; 1418:8,15;1419:1; 1420:14;1421:4,8; 1422:11,14,16,17 <b>called (27)</b> 1222:19;1229:21; 1245:22;1247:13; 1257:4;1258:2; 1290:10;1299:16,23; 1310:10;1342:14; 1344:14,14,20; 1358:11;1359:25; 1363:15;1377:24,25; 1387:2,4;1389:17; 1418:9;1420:15,19; 1422:17;1425:25 <b>calling (7)</b> 1328:19;1342:11,				

1418:15;1419:2; 1421:9;1422:7,9,13; 1424:14;1425:5 <b>candidly (4)</b> 1217:3;1219:19; 1321:8;1423:9 <b>car (5)</b> 1328:3,8,13; 1343:13,16 <b>card (1)</b> 1250:4 <b>care (3)</b> 1226:7;1390:4; 1392:5 <b>Case (41)</b> 1209:3;1214:4; 1220:5,8,11,18,21; 1222:11;1224:9,12, 14;1233:13;1241:17; 1243:13;1307:3; 1309:14;1339:12; 1371:6;1373:8,23; 1387:14;1388:6; 1396:9;1397:22,23; 1405:14;1418:9,11, 16;1419:1,4;1420:13; 1422:12,24;1423:5,8, 8,15,24;1425:20,21 <b>cases (1)</b> 1224:15 <b>catch (1)</b> 1310:20 <b>catching (1)</b> 1308:18 <b>caused (2)</b> 1260:18;1283:13 <b>causing (1)</b> 1337:6 <b>CC (1)</b> 1417:22 <b>CC'd (1)</b> 1386:13 <b>cell (3)</b> 1381:8,10;1410:14 <b>CEO (1)</b> 1251:22 <b>certain (14)</b> 1223:13;1253:16; 1258:5,9;1261:16,18; 1283:15,17;1284:19, 21;1404:17;1424:10, 19,22 <b>Certainly (11)</b> 1219:23;1253:18; 1277:25;1312:2; 1326:11;1336:20; 1368:8;1416:9; 1420:25;1421:9; 1422:9 <b>Certification (5)</b> 1307:11,22,24; 1308:1;1309:4 <b>certified (6)</b>	1301:20,22; 1302:17,19;1356:18; 1365:23 <b>cetera (2)</b> 1395:16,16 <b>chain (1)</b> 1246:19 <b>challenge (4)</b> 1223:14;1225:7,8; 1227:11 <b>challenges (1)</b> 1309:1 <b>challenging (1)</b> 1225:6 <b>chance (4)</b> 1218:1;1222:23; 1272:15;1309:9 <b>chance/ (1)</b> 1398:11 <b>change (8)</b> 1243:2;1321:16; 1333:15,23;1334:1; 1342:2;1346:6; 1361:18 <b>characterize (1)</b> 1214:23 <b>charge (2)</b> 1257:16;1280:10 <b>Charging (1)</b> 1209:9 <b>chat (5)</b> 1355:22;1396:12, 16,22;1398:6 <b>chats (1)</b> 1355:22 <b>checked (1)</b> 1398:23 <b>chief (6)</b> 1418:9,16;1419:1, 4;1422:12;1425:21 <b>childish (2)</b> 1342:14;1360:1 <b>Chip (40)</b> 1249:1,3,10; 1251:1,7,8;1254:6; 1257:19,19;1260:13; 1263:16,21;1264:11, 24,25;1285:15,16,18; 1286:1;1289:3; 1291:24,25;1292:2; 1293:19,21;1294:1,2, 7;1300:2;1302:14,17, 21;1307:23;1364:9, 12;1365:7;1391:17; 1408:7,8,16 <b>Chippewa (29)</b> 1248:21,24;1254:2; 1257:15,21;1260:14; 1261:4;1269:1,4,13, 18,19,20,23;1271:2; 1272:19;1283:22; 1291:21,22;1305:6; 1307:24;1364:9;	1390:12,13,24; 1391:1,14;1392:25; 1393:23 <b>choice (3)</b> 1233:11,12,12 <b>choose (2)</b> 1233:16;1421:2 <b>chose (2)</b> 1420:15;1422:17 <b>chosen (1)</b> 1233:23 <b>chunk (1)</b> 1234:19 <b>circle (2)</b> 1214:6;1293:11 <b>circling (1)</b> 1218:16 <b>circular (1)</b> 1250:8 <b>circulate (1)</b> 1327:2 <b>cited (1)</b> 1353:15 <b>cites (1)</b> 1387:13 <b>cities (1)</b> 1250:11 <b>city (1)</b> 1230:20 <b>claim (1)</b> 1371:14 <b>claiming (1)</b> 1423:23 <b>clarification (1)</b> 1327:25 <b>clarify (4)</b> 1221:25;1222:17; 1256:11;1277:25 <b>clean (20)</b> 1256:19;1257:4,5, 6,11;1258:10,13; 1276:9,22,25;1277:5, 6,10,14;1278:5; 1279:16,20,24; 1280:3;1326:18 <b>cleaner (1)</b> 1231:16 <b>cleaning (1)</b> 1257:6 <b>cleanup (1)</b> 1279:23 <b>clear (23)</b> 1221:14;1222:4,5; 1234:2;1252:23; 1260:19;1273:10; 1281:11;1282:5; 1284:4;1291:22; 1293:2;1302:5; 1352:12;1354:12; 1367:20;1385:16; 1400:16;1407:5,9; 1416:5,17;1425:17 <b>client (1)</b>	1423:17 <b>clock (2)</b> 1279:4;1369:11 <b>clocked (7)</b> 1279:3;1280:2; 1316:14;1333:8; 1334:5;1340:15; 1351:1 <b>close (6)</b> 1224:3;1256:19; 1266:15;1313:12; 1366:25;1387:5 <b>closed (4)</b> 1231:24;1232:3,12; 1257:3 <b>closes (1)</b> 1257:9 <b>closest (2)</b> 1232:23;1233:25 <b>closing (7)</b> 1234:8;1256:19,24, 25;1257:1;1258:12; 1280:3 <b>closure (1)</b> 1238:11 <b>clue (1)</b> 1223:7 <b>clutter (1)</b> 1217:4 <b>coach (1)</b> 1272:16 <b>coaching (17)</b> 1260:17;1269:13, 16;1271:23;1272:8, 22,25;1295:5,21; 1297:1;1303:10; 1331:25;1332:11,14, 17;1337:2;1402:5 <b>coachings (1)</b> 1303:11 <b>coast (1)</b> 1420:9 <b>code (22)</b> 1238:16,19; 1333:16,17,18,20; 1341:10,22,24; 1345:18;1348:9,20, 22;1355:11,12; 1356:9,19,23;1357:1; 1359:21;1361:14; 1362:16 <b>codes (1)</b> 1355:15 <b>coffee (2)</b> 1340:18;1402:25 <b>cognizant (2)</b> 1227:25;1228:21 <b>cold (2)</b> 1392:20;1393:5 <b>Cole (31)</b> 1309:21;1310:4,9; 1311:9,13;1312:12; 1314:20;1316:2;	1318:12,13,18; 1320:16,20;1326:21; 1327:20,24;1328:8; 1330:16;1331:20,24; 1332:20;1335:20; 1336:25;1337:14; 1339:9;1340:9; 1345:6,24;1348:3; 1353:4;1361:13 <b>C-O-L-E (1)</b> 1310:4 <b>Cole's (2)</b> 1327:13,20 <b>collaborate (1)</b> 1422:13 <b>colleague (2)</b> 1303:23;1385:16 <b>collect (1)</b> 1412:8 <b>collective (1)</b> 1366:12 <b>color (1)</b> 1250:10 <b>column (1)</b> 1238:12 <b>combative (1)</b> 1371:22 <b>comfortable (2)</b> 1225:17;1247:3 <b>coming (16)</b> 1214:11,17,18; 1218:20;1224:6; 1235:9,15;1305:4; 1334:23;1343:9; 1369:22;1396:2; 1418:18;1420:6,8; 1425:16 <b>commence (1)</b> 1425:21 <b>comment (2)</b> 1233:13;1295:12 <b>comments (1)</b> 1236:14 <b>commit (2)</b> 1223:24,25 <b>committee (1)</b> 1366:11 <b>committees (1)</b> 1366:13 <b>Commons (14)</b> 1233:17,23; 1238:20;1308:1; 1312:18,25;1313:16; 1314:11,11,14,25; 1329:17;1362:15,16 <b>communicated (1)</b> 1235:3 <b>communication (2)</b> 1258:22;1280:24 <b>communications (2)</b> 1235:5,12 <b>community (1)</b> 1399:11
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<b>company (5)</b> 1224:7;1259:25; 1284:5;1402:21; 1403:7	<b>confused (5)</b> 1317:7;1318:19; 1323:22;1351:17; 1379:6	1269:3,10;1270:21; 1273:15,21;1275:9, 13,21;1316:17; 1376:24;1378:22	1379:22;1398:7,16 <b>CORPORATION (1)</b> 1209:5	1394:7;1408:3; 1409:11;1413:9; 1415:5
<b>compared (1)</b> 1422:1	<b>confusing (1)</b> 1323:23	<b>continuously (1)</b> 1269:7	<b>correction (2)</b> 1269:23;1273:14	<b>count (1)</b> 1315:22
<b>complain (1)</b> 1387:25	<b>connection (4)</b> 1241:17;1243:13; 1355:10;1420:21	<b>Contract (2)</b> 1365:18;1366:11	<b>corrections (1)</b> 1337:1	<b>counting (1)</b> 1318:14
<b>complaining (3)</b> 1424:1,4,24	<b>Connor (27)</b> 1290:4,9;1291:4; 1292:7;1294:6; 1295:20,24;1296:18; 1297:16;1299:7; 1300:1;1397:4,5,13, 14,15,17;1399:21; 1405:17,19,20; 1406:4,9,14,20; 1407:1;1408:9	<b>controversy (1)</b> 1312:2	<b>corrective (28)</b> 1265:5,13,18; 1266:5,9,23;1267:18; 1270:7,16;1271:6; 1272:12;1280:17,21; 1281:14,22;1282:2,8; 1285:25;1286:2,9,14; 1287:15,22;1302:22; 1303:4,7;1326:10; 1354:13	<b>country (3)</b> 1223:16;1366:13; 1418:14
<b>complains (1)</b> 1423:21	<b>C-O-N-N-O-R (1)</b> 1290:5	<b>convenient (1)</b> 1282:13	<b>correctness (1)</b> 1271:18	<b>couple (10)</b> 1293:8;1308:7; 1338:4;1386:5; 1399:9;1409:17; 1414:8;1419:13,21; 1425:23
<b>complaint (20)</b> 1229:24,25; 1247:16;1290:13; 1307:4,12,23,25; 1308:2,5,9,23; 1310:13,14,17,21; 1363:18;1371:10; 1389:19,21	<b>consent (3)</b> 1373:11;1386:8; 1387:16	<b>conversation (34)</b> 1224:5;1235:6; 1245:21;1300:11; 1316:16;1328:10; 1329:9;1330:16; 1334:15;1337:23; 1338:1;1342:24; 1343:1;1368:24; 1372:20;1373:3; 1384:12,14;1398:14, 18;1399:16;1400:10, 14,22;1401:18; 1402:14;1410:5,13, 25;1411:1,2;1412:23; 1422:9;1425:7	<b>correctly (2)</b> 1368:18;1424:11	<b>course (12)</b> 1220:13;1231:12; 1232:10,16;1233:5,8, 9,12;1239:5,24; 1387:24,24
<b>complete (22)</b> 1235:2;1257:24; 1258:10,17,20; 1276:4,8,12,16,22; 1277:14;1279:1,19, 23;1280:5,9,12,13; 1323:5;1325:19; 1326:6;1418:4	<b>considered (2)</b> 1350:4,15	<b>conversations (8)</b> 1225:13;1232:15; 1236:8;1237:6,9,12; 1372:17;1399:23	<b>correspond (1)</b> 1378:5	<b>court (3)</b> 1226:13;1303:21, 22
<b>completely (3)</b> 1220:4;1355:25; 1422:18	<b>consistent (1)</b> 1321:22	<b>convey (1)</b> 1277:9	<b>Correspondence (1)</b> 1378:4	<b>courtesy (1)</b> 1423:11
<b>complimented (2)</b> 1398:22;1400:3	<b>construe (3)</b> 1221:1,2,2	<b>convince (1)</b> 1229:3	<b>couldn't (2)</b> 1360:9,9	<b>Court's (1)</b> 1309:3
<b>computer (1)</b> 1396:1	<b>contact (22)</b> 1228:25;1294:1,5; 1296:9;1304:24; 1305:2,9,15;1357:21; 1371:8;1373:18,22; 1395:2,18;1396:1,10, 19,20,25;1398:3; 1403:1,10	<b>cooperation (3)</b> 1407:19;1409:7; 1414:5	<b>Counsel (75)</b> 1214:5,9;1216:10, 10;1220:17,18; 1222:18,18;1223:18, 19;1224:5,22,23,25; 1229:23;1243:12; 1245:20,20,24,24; 1246:1,1;1247:15; 1251:14;1265:17,17; 1273:24;1275:16,16; 1290:12;1307:2,5; 1309:6;1310:12; 1318:10;1322:5,9,9, 18;1326:5,5,17; 1327:10;1337:11; 1346:11;1362:2; 1363:17;1382:19,20; 1383:12,16;1386:6, 11,11,13,15,19,20; 1389:20;1394:10; 1409:18;1415:5; 1418:3,4,7,7,15,15; 1420:12,12;1421:20; 1422:15,16;1423:21, 21	<b>cover (1)</b> 1224:11
<b>con (1)</b> 1388:10	<b>contacted (4)</b> 1283:19;1305:7; 1397:25;1399:2	<b>copied (2)</b> 1385:17,18	<b>Counsel's (25)</b> 1224:25;1254:19; 1255:13;1259:18; 1260:7;1294:25; 1295:18;1296:20; 1297:14;1298:16; 1299:5;1309:16; 1319:18;1326:16; 1335:10;1336:22; 1362:14;1367:8; 1368:7;1393:11;	<b>coverage (9)</b> 1261:17,17;1283:3, 15,16;1284:1; 1395:11,12,12
<b>concede (1)</b> 1245:25	<b>contacting (1)</b> 1305:13	<b>copies (2)</b> 1226:14;1288:25		<b>covered (2)</b> 1289:11;1410:8
<b>concern (1)</b> 1220:5	<b>contacts (1)</b> 1294:3	<b>copy (44)</b> 1226:12;1263:7,11, 14;1303:17;1304:6; 1305:22;1319:12,21; 1321:14,19;1322:14, 19;1326:3;1327:4; 1335:1,11,24;1336:5; 1347:4,5,6,7,9; 1348:6,11;1353:22; 1354:19;1368:25; 1375:1,3;1380:22; 1381:17;1382:4,17; 1384:15;1386:6; 1394:4;1402:23; 1404:13;1405:20; 1406:4,14,20		<b>coworkers (4)</b> 1292:16;1293:7; 1313:18;1392:2
<b>concerning (2)</b> 1232:19;1418:6	<b>contain (1)</b> 1354:13	<b>copy's (1)</b> 1320:5		<b>Crawford (1)</b> 1315:2
<b>concerns (1)</b> 1275:25	<b>contains (3)</b> 1348:22;1353:19; 1354:7	<b>corner (7)</b> 1324:14;1347:12; 1353:8;1364:8;		<b>created (2)</b> 1353:7,16
<b>concluded (2)</b> 1242:23;1243:4	<b>contend (1)</b> 1355:11			<b>creating (1)</b> 1424:23
<b>conclusion (1)</b> 1241:8	<b>continuance (2)</b> 1220:19;1423:24			<b>creations (1)</b> 1323:24
<b>conduct (1)</b> 1422:3	<b>continuation (1)</b> 1272:2			<b>criticism (1)</b> 1371:22
<b>conducting (2)</b> 1276:9;1279:16	<b>continue (9)</b> 1220:21;1234:14; 1248:19;1293:19; 1300:23;1336:23; 1387:20;1390:22; 1418:16			<b>cross (12)</b> 1227:7;1236:25; 1263:2;1300:23; 1301:3,4;1339:20; 1374:20;1387:20; 1404:8;1413:24; 1421:9
<b>confidential (2)</b> 1403:2,4	<b>continued (11)</b>			<b>crossed (2)</b> 1322:25;1371:23
<b>confirm (5)</b> 1238:5;1360:22; 1384:8;1385:1,24				<b>CROSS-EXAMINATION (1)</b> 1348:1
<b>confirmed (3)</b> 1370:12;1379:7; 1386:7				<b>crying (1)</b> 1343:13
<b>confirms (1)</b> 1386:6				<b>cuff (2)</b>

1216:5;1225:18 <b>curious (1)</b> 1322:15 <b>currently (2)</b> 1241:5;1311:15 <b>customer (1)</b> 1405:14 <b>customers (3)</b> 1244:17;1261:21; 1399:13 <b>cut (1)</b> 1241:14	1261:11,12;1264:4; 1276:8;1279:13,16, 19,23;1280:6; 1284:22,24;1297:19; 1298:5;1299:10,12, 16;1305:19;1313:9, 16;1316:11;1322:17; 1333:5;1337:9,9,19; 1338:9;1339:1,10,18; 1340:15,20,24; 1349:11;1354:9; 1355:8;1358:20; 1360:8;1364:6; 1366:7;1370:14,16, 17;1372:14,17; 1374:5,7,8;1392:9; 1394:21,22,23; 1395:10,13;1398:5, 10,20;1400:25; 1401:3,6;1402:24; 1412:24;1418:5,9; 1422:17;1423:15; 1425:8 <b>days (16)</b> 1254:13;1255:18; 1261:9;1283:2; 1295:22;1313:8; 1337:23;1338:4; 1353:15;1372:22; 1418:2,2,3;1419:1,12, 12 <b>DCR (10)</b> 1339:17;1395:1,5, 14;1405:9,20;1406:4, 9,14,20 <b>DCRs (10)</b> 1395:4;1396:4,6; 1397:1,19;1399:20; 1403:4;1405:1,12,16 <b>DD (1)</b> 1308:16 <b>deadline (1)</b> 1417:10 <b>deadlines (1)</b> 1214:17 <b>deal (8)</b> 1223:4;1226:4,5; 1290:22;1323:15; 1324:18;1425:19; 1426:4 <b>dealing (4)</b> 1223:9;1374:3; 1419:22;1425:5 <b>Dear (1)</b> 1251:7 <b>December (9)</b> 1233:3;1266:3; 1273:20;1274:14; 1286:18;1301:9; 1302:7,10;1400:1 <b>decent (1)</b> 1218:1 <b>decide (1)</b>	1241:11 <b>decided (5)</b> 1241:9;1242:4; 1243:9;1355:7; 1370:18 <b>decision (4)</b> 1222:8;1240:4; 1308:11;1309:3 <b>deep (1)</b> 1257:6 <b>default (1)</b> 1237:21 <b>define (1)</b> 1223:8 <b>defining (1)</b> 1230:22 <b>definitely (4)</b> 1242:7;1345:13; 1402:16;1415:10 <b>definitively (1)</b> 1361:1 <b>Del (40)</b> 1249:1,3,10; 1250:25;1251:7,8; 1254:6;1257:19,19; 1260:13;1263:16,21; 1264:11,23,25; 1285:15,16,18; 1286:1;1289:3; 1291:24,25;1292:2; 1293:19,21;1294:1,2, 7;1300:2;1302:13,16, 21;1307:23;1364:9, 12;1365:7;1391:17; 1408:7,8,16 <b>Delaware (36)</b> 1248:17,21,24; 1254:2;1257:15,21; 1260:14,16;1261:4; 1265:1,9;1268:25; 1269:1,4,12,18,19,20, 22;1271:2;1272:18; 1283:22;1285:12; 1291:21,22;1305:6; 1307:23;1364:8,8; 1390:12,13,24; 1391:1,14;1392:25; 1393:23 <b>delay (1)</b> 1423:13 <b>delays (1)</b> 1424:24 <b>delete (1)</b> 1387:9 <b>deliveries (1)</b> 1395:24 <b>demonstrates (1)</b> 1408:16 <b>demonstrating (1)</b> 1375:20 <b>demonstration (2)</b> 1254:13,14 <b>demonstrative (1)</b>	1218:24 <b>demonstrator (1)</b> 1254:11 <b>denied (3)</b> 1382:21,25; 1383:14 <b>denying (1)</b> 1385:16 <b>depending (2)</b> 1239:13;1280:11 <b>Depew (6)</b> 1233:18,25; 1238:21;1294:20; 1390:12,15 <b>describe (8)</b> 1233:6;1250:6; 1293:10;1307:6; 1313:25;1314:17; 1366:8;1371:9 <b>desk (2)</b> 1372:25;1395:23 <b>destroy (1)</b> 1386:16 <b>details (1)</b> 1253:20 <b>develop (3)</b> 1388:2,4,9 <b>dictate (1)</b> 1239:3 <b>dictated (1)</b> 1239:8 <b>died (1)</b> 1337:16 <b>difference (1)</b> 1323:1 <b>different (27)</b> 1235:8;1239:13; 1243:17,21;1253:19; 1258:8;1265:6; 1272:17;1280:11; 1291:13,20,23; 1293:8;1320:5,6; 1321:20;1322:15,19; 1327:19;1336:19; 1342:3;1347:16; 1355:25;1360:8; 1368:3;1378:1,3 <b>differently (1)</b> 1321:12 <b>difficult (1)</b> 1420:6 <b>digesting (1)</b> 1226:17 <b>dire (1)</b> 1252:6 <b>direct (27)</b> 1227:6;1230:4; 1231:19;1237:4; 1247:20;1256:4; 1259:3;1260:9; 1265:7;1266:10; 1280:15;1286:4,20; 1291:2;1297:16;	1299:7;1311:7; 1363:22;1368:11; 1369:13;1370:13; 1372:16;1389:25; 1391:11;1394:12; 1400:25;1410:2 <b>directed (2)</b> 1386:16;1387:8 <b>directing (2)</b> 1256:15;1425:9 <b>direction (2)</b> 1308:12;1329:19 <b>directly (2)</b> 1236:15;1237:9 <b>disagree (4)</b> 1270:14;1274:23; 1346:1,4 <b>discharged (3)</b> 1249:7;1292:3; 1364:10 <b>discharging (1)</b> 1300:10 <b>disciplinary (3)</b> 1289:3;1369:1; 1370:6 <b>discipline (17)</b> 1270:22;1275:10; 1289:11;1296:3,10; 1316:5;1332:2,7,9; 1350:4,15;1353:11; 1359:2,7,18;1375:14; 1378:20 <b>disciplined (6)</b> 1316:3;1349:24; 1350:1;1359:5; 1399:17;1400:23 <b>discount (1)</b> 1416:20 <b>discovery (2)</b> 1226:9;1416:2 <b>discrepancy (1)</b> 1353:18 <b>discuss (11)</b> 1214:22;1245:3; 1288:16;1300:24; 1306:9;1346:24; 1362:8;1387:3; 1388:15;1403:23; 1407:18 <b>discussed (2)</b> 1238:2;1252:25 <b>discussing (1)</b> 1353:18 <b>discussion (3)</b> 1225:16;1276:3; 1352:5 <b>discussions (1)</b> 1237:17 <b>displayed (1)</b> 1339:18 <b>dispute (2)</b> 1255:17;1295:21 <b>disputing (1)</b>
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1413:13 <b>disrespect (6)</b> 1317:4,7;1351:14, 17,23;1352:10 <b>disrespected (1)</b> 1402:19 <b>disruption (1)</b> 1423:16 <b>distinction (2)</b> 1322:23;1325:9 <b>distributed (3)</b> 1232:12;1347:3; 1366:4 <b>distributing (1)</b> 1319:16 <b>district (2)</b> 1283:19;1286:23 <b>Division (1)</b> 1423:25 <b>Doc (3)</b> 1233:2,7;1239:1 <b>Docs (7)</b> 1232:22;1238:12, 15,19;1243:14,14,16 <b>document (78)</b> 1214:24;1219:16; 1222:12,24;1225:2, 24;1226:12;1245:21; 1246:15,17;1251:19, 25;1252:10,11,16; 1253:11;1254:20,23; 1255:5;1259:6,19,22; 1260:1;1262:6; 1266:5;1267:22; 1268:15;1269:13,16; 1271:23;1272:2,8,16, 22,25;1274:11,13; 1275:9;1287:19; 1295:1,2,11,25; 1296:21,23;1297:3,9; 1298:17,19,22; 1323:5,24;1325:19; 1326:2,6;1328:5; 1335:20;1336:25; 1354:3;1367:9,11,16, 18,21,21,22;1369:16, 21;1377:21;1393:12, 16,18;1394:13; 1413:16;1414:22; 1415:6;1421:10; 1423:22 <b>documented (14)</b> 1262:4,7;1271:12; 1295:5,21;1297:1; 1303:10,11;1331:25; 1332:11,14,17; 1337:2;1402:5 <b>documents (56)</b> 1214:25;1215:18; 1216:2,17,25;1217:1; 1219:11,21;1220:2,6, 22;1221:4,9,16,19; 1222:14,21;1223:3,	12;1224:4,5,8,14,23; 1225:18;1307:3; 1382:21;1394:24,24, 25;1416:7,9,11,13,16, 22;1417:1,5;1418:2,3, 5;1419:17,18,23; 1420:20,22;1421:6, 12,14,16,22;1422:1; 1424:2,10,23;1425:12 <b>doesn't (1)</b> 1385:24 <b>Dominic (1)</b> 1412:10 <b>done (17)</b> 1235:9,23,25; 1240:19;1257:7,11; 1258:13;1267:15; 1278:9;1288:9; 1342:10;1379:3; 1387:18;1400:17; 1406:21,24;1425:10 <b>door (5)</b> 1329:4;1342:18; 1343:2,3,8 <b>Dow (4)</b> 1365:2,3;1369:19; 1377:9 <b>down (8)</b> 1223:22;1231:1,8; 1233:9;1290:23; 1334:16;1402:1; 1410:10 <b>drafted (1)</b> 1354:9 <b>DRAVES (7)</b> 1363:9,9,14; 1409:4,13,16,20 <b>D-R-A-V-E-S (1)</b> 1363:10 <b>draw (1)</b> 1353:4 <b>dress (21)</b> 1333:16,17,18,20; 1341:10,22,24; 1345:18;1348:8,20, 22;1355:11,12,15; 1356:9,19,23;1357:1; 1359:21;1361:14; 1362:16 <b>drove (1)</b> 1334:1 <b>dry (1)</b> 1241:15 <b>due (4)</b> 1214:15;1231:12; 1366:23;1419:17 <b>duly (7)</b> 1229:21;1247:13; 1290:10;1310:10; 1363:15;1389:17; 1409:21 <b>duplicate (1)</b> 1380:12	<b>duration (2)</b> 1424:9,22 <b>during (39)</b> 1217:18;1219:11; 1220:10;1222:20; 1237:7,10;1238:3; 1239:4,9,21;1258:4; 1261:12;1264:11; 1265:7;1266:10; 1281:4;1287:14,21; 1288:9;1294:9; 1299:21;1301:23,24; 1319:11;1321:3; 1328:9;1329:9; 1330:16;1337:25; 1361:22;1384:13,15; 1385:13;1404:15,19; 1417:10;1418:9; 1422:11,17 <b>duties (3)</b> 1256:19,20; 1283:13 <b>duty (3)</b> 1255:24;1277:11; 1361:2	<b>Ekberg (3)</b> 1229:15,15,20 <b>election (2)</b> 1301:24;1308:12 <b>electronic (1)</b> 1321:19 <b>elevated (1)</b> 1291:15 <b>eligibility (1)</b> 1308:15 <b>Elmwood (2)</b> 1209:14;1317:18 <b>else (20)</b> 1224:18,18; 1226:18;1236:3; 1239:1;1266:16; 1283:20;1285:4; 1306:5;1315:19; 1331:4,7;1334:14; 1343:4;1350:20; 1355:7;1360:13; 1362:23;1373:24; 1423:18 <b>eluded (1)</b> 1241:14 <b>email (12)</b> 1214:8;1220:11; 1226:12;1246:19; 1252:12;1381:16,17; 1382:1;1410:20; 1414:17,18;1417:22 <b>emailed (6)</b> 1226:13;1253:14, 14;1309:6;1382:1,4 <b>emailing (1)</b> 1409:24 <b>embarrassed (1)</b> 1342:24 <b>emotional (1)</b> 1402:10 <b>employed (1)</b> 1405:20 <b>employee (15)</b> 1222:3;1223:11; 1369:23;1392:17; 1395:10,18;1396:10, 15,17;1403:1; 1416:18,21;1417:4; 1421:2,4 <b>employees (13)</b> 1251:1;1284:11,11, 17;1314:15;1316:15; 1351:3;1365:16; 1402:24;1408:7,8,9, 16 <b>employer (3)</b> 1295:25;1300:6,9 <b>employment (17)</b> 1244:12;1247:25; 1248:20;1273:7; 1276:1;1282:10,11; 1357:6;1364:13,20; 1365:4;1375:23;	1379:12;1390:22; 1391:7;1404:15,20 <b>end (21)</b> 1220:21;1270:17; 1271:10;1279:19,23; 1280:6;1286:8,12; 1290:24;1322:17; 1342:17;1343:1; 1365:3;1371:13; 1391:7;1395:8; 1400:1;1402:14; 1412:7;1418:5; 1423:15 <b>ended (2)</b> 1331:15;1411:2 <b>ends (1)</b> 1328:8 <b>enforce (1)</b> 1361:14 <b>enforcement (1)</b> 1362:17 <b>enjoy (1)</b> 1402:25 <b>enjoyed (1)</b> 1244:17 <b>enough (4)</b> 1214:19;1221:13; 1283:8;1423:23 <b>ensure (1)</b> 1270:25 <b>enter (1)</b> 1335:7 <b>entire (7)</b> 1216:17;1235:11; 1358:6;1364:12,19; 1400:1;1418:4 <b>entirety (3)</b> 1235:1;1282:10,11 <b>environment (2)</b> 1366:21;1399:11 <b>Eric (1)</b> 1331:19 <b>Erica (1)</b> 1355:5 <b>especially (1)</b> 1402:19 <b>essentially (4)</b> 1215:23;1218:24; 1299:21;1380:11 <b>established (1)</b> 1386:5 <b>establishes (1)</b> 1308:13 <b>estimate (4)</b> 1232:14;1257:14; 1294:14;1393:1 <b>et (2)</b> 1395:16,16 <b>Ethan (1)</b> 1263:5 <b>even (21)</b> 1220:3,19;1225:19, 19,24;1234:21;
		<b>E</b>		
		<b>earlier (5)</b> 1266:10,16; 1276:25;1311:22; 1335:7 <b>earliest (1)</b> 1234:7 <b>early (6)</b> 1232:18;1291:21; 1333:7;1364:23; 1366:18;1388:22 <b>East (1)</b> 1312:18 <b>Eckberg (1)</b> 1229:11 <b>edit (1)</b> 1413:1 <b>edited (1)</b> 1410:21 <b>effect (2)</b> 1236:14;1369:12 <b>effort (1)</b> 1418:18 <b>eight (8)</b> 1215:8;1236:19; 1239:22;1279:11; 1294:16,18;1403:18, 19 <b>either (10)</b> 1217:9;1219:21; 1255:23;1281:7; 1304:18;1360:10; 1379:6;1381:23; 1392:15;1416:12 <b>E-K- (1)</b> 1229:15		

1272:23;1273:1,14; 1275:25;1296:14; 1305:24;1347:12; 1353:14;1370:8; 1376:23;1378:22; 1405:13;1406:2,3; 1422:22 <b>evening (1)</b> 1415:3 <b>Everybody (6)</b> 1245:7;1283:25; 1393:5;1396:25; 1397:24;1403:10 <b>everybody's (1)</b> 1234:9 <b>everyone (11)</b> 1220:11;1226:14; 1327:2;1339:18; 1342:18;1405:10,12, 17;1417:21,22; 1423:19 <b>everyone's (2)</b> 1227:25;1228:3 <b>everywhere (1)</b> 1420:11 <b>evidence (35)</b> 1226:11;1255:13; 1260:7;1264:16,21; 1267:4,8,25;1268:5; 1274:7;1275:1,6,17; 1289:3;1295:18; 1297:14;1299:5; 1307:6;1309:17; 1321:7;1326:4,16; 1327:17;1336:14,22; 1368:7;1376:17,21; 1377:14,19;1380:10, 17;1394:7;1413:9,11 <b>exacerbated (1)</b> 1374:3 <b>exact (2)</b> 1283:7;1285:2 <b>exactly (6)</b> 1233:5;1237:12; 1239:20;1243:20; 1268:16;1423:6 <b>EXAMINATION (17)</b> 1230:4;1236:25; 1247:20;1252:8; 1263:2;1265:7; 1266:11;1285:6; 1291:2;1301:4; 1311:7;1361:11; 1363:22;1374:20; 1389:25;1404:8; 1410:2 <b>examined (7)</b> 1229:21;1247:13; 1290:10;1310:10; 1363:15;1389:17; 1409:22 <b>examiner (1)</b> 1327:6	<b>Excel (3)</b> 1215:23;1218:25; 1424:23 <b>except (3)</b> 1293:14;1336:18; 1418:21 <b>exception (2)</b> 1380:12;1418:23 <b>excuse (1)</b> 1315:9 <b>excused (7)</b> 1245:1;1288:16; 1306:9;1362:7; 1388:13;1407:15; 1414:3 <b>exercise (3)</b> 1416:11;1421:19; 1422:3 <b>exercises (1)</b> 1388:7 <b>exhibit (88)</b> 1218:24;1251:14, 16;1253:18,21; 1254:3,18,19; 1255:13;1259:17,18; 1260:7;1264:7,21; 1265:25;1267:8,11; 1268:5;1270:2; 1274:7,10;1275:6,17, 20;1289:17;1294:23, 25;1295:18;1296:19, 20;1297:14;1298:15, 16;1299:5;1307:1,10, 21,23;1308:1,3,6,11, 14,16,25;1309:1,3,3; 1319:17,18;1321:6; 1325:23;1326:16,23; 1327:10,16,24; 1335:7,8,10;1336:13, 22;1353:19;1354:12, 13;1362:13,14,23,25; 1367:7,8;1368:7; 1376:4,21;1377:5,19; 1380:17;1393:10,11; 1394:7;1401:5; 1408:17,18;1409:10, 11;1411:10;1413:9, 12 <b>Exhibits (6)</b> 1226:8,11;1307:2; 1308:8;1309:16; 1335:15 <b>exist (1)</b> 1217:2 <b>ex-manager (1)</b> 1406:3 <b>expansive (1)</b> 1225:20 <b>expect (3)</b> 1386:25;1388:24; 1425:24 <b>expectation (3)</b> 1263:24;1419:21;	1425:22 <b>experience (3)</b> 1257:19;1261:22; 1357:6 <b>explain (10)</b> 1225:11;1253:24; 1256:20;1258:3; 1293:6;1339:14; 1369:8;1395:4,22; 1397:19 <b>explained (2)</b> 1368:25;1370:25 <b>expressing (1)</b> 1318:4 <b>extended (1)</b> 1419:18 <b>extent (7)</b> 1216:9;1219:16; 1223:18;1225:5; 1379:2;1382:16; 1387:8 <b>extra (3)</b> 1223:10;1316:25; 1388:7 <b>Eye (14)</b> 1255:2;1256:21; 1258:3,4,17,20; 1276:4,8;1279:2,20, 24;1280:2,9;1402:15 <b>eyes (2)</b> 1214:24;1421:16	1276:4 <b>fails (1)</b> 1375:12 <b>failsafe (1)</b> 1373:18 <b>failure (1)</b> 1270:21 <b>Fair (4)</b> 1214:19;1221:12; 1374:16;1423:1 <b>fairly (1)</b> 1227:2 <b>faith (1)</b> 1425:11 <b>fall (7)</b> 1249:24;1250:2,4; 1260:18;1266:20; 1269:21;1385:22 <b>fallen (2)</b> 1370:21;1373:19 <b>familiar (3)</b> 1313:13,15,17 <b>farther (1)</b> 1233:9 <b>fear (1)</b> 1220:17 <b>February (7)</b> 1241:7;1259:4; 1312:13;1348:5; 1356:11;1378:5; 1391:8 <b>feel (6)</b> 1225:10;1247:4; 1300:23;1321:12; 1346:23;1423:17 <b>feeling (2)</b> 1370:18;1371:1 <b>fell (1)</b> 1373:15 <b>fellow (1)</b> 1329:15 <b>felt (3)</b> 1299:19;1341:21; 1372:2 <b>few (10)</b> 1255:25;1316:15; 1331:17;1337:23; 1338:20;1351:3; 1353:15;1355:21; 1372:22;1418:24 <b>field (1)</b> 1327:5 <b>figure (7)</b> 1218:18;1229:9; 1306:21;1325:13; 1326:14;1386:1; 1403:17 <b>figured (1)</b> 1423:13 <b>file (4)</b> 1327:12,13; 1381:18;1382:5 <b>filed (3)</b>	1264:24;1308:3; 1371:13 <b>filing (1)</b> 1214:9 <b>fill (3)</b> 1232:22;1238:17; 1253:19 <b>final (53)</b> 1255:1;1275:18,25; 1282:2;1297:1; 1303:9;1316:6,10; 1317:14,22;1318:12, 23;1319:3,12; 1320:19;1321:1,3; 1326:3;1328:9; 1330:1,18,25;1331:9, 13;1332:5;1350:23; 1352:2,5,9,13,19; 1353:2,5,22;1354:2, 25;1369:2,4,10,14,18, 25;1370:3,5;1376:24; 1377:8;1393:17; 1401:1;1402:2,6; 1413:14,17,20 <b>finalize (1)</b> 1218:20 <b>find (5)</b> 1279:1;1355:25; 1356:7;1383:20; 1385:6 <b>fine (25)</b> 1218:9,12;1219:20; 1224:15;1228:22; 1229:7;1288:20; 1289:24;1290:20,20; 1300:21;1324:15,17; 1325:24;1338:2; 1354:22;1363:3; 1373:12;1384:7; 1394:9;1397:11; 1403:21;1417:7,22; 1419:19 <b>finger (1)</b> 1371:24 <b>finish (1)</b> 1281:2 <b>finished (6)</b> 1251:17,18; 1254:21,22;1256:21; 1259:20 <b>finishing (1)</b> 1401:20 <b>fire (1)</b> 1294:20 <b>fired (7)</b> 1314:10;1332:23; 1333:10;1370:9; 1384:15;1401:23; 1412:8 <b>firing (1)</b> 1296:15 <b>first (63)</b> 1214:6,15;1227:2;
<b>F</b>				
<b>face (6)</b> 1276:1;1371:24; 1384:13;1398:12,13; 1402:9 <b>facility (2)</b> 1308:4,12 <b>facing (4)</b> 1329:18,20; 1398:17;1400:13 <b>fact (41)</b> 1234:6;1243:8; 1245:23;1263:21; 1264:24;1267:1; 1268:18;1269:3,12; 1272:2,8;1273:2,20, 20;1274:19;1275:10, 24;1276:3,7;1277:3, 10;1279:15;1280:8; 1281:13;1284:7; 1303:17;1304:24; 1305:25;1323:16; 1348:15;1350:17; 1352:8;1354:7,16; 1357:1;1359:10,13, 16;1361:1;1375:19; 1379:11 <b>factor (2)</b> 1242:7;1415:18 <b>failed (1)</b>				

1229:14;1230:16; 1231:3,19;1233:1,11, 23;1236:11;1247:5,6, 24;1248:2;1251:3; 1252:3;1263:15; 1279:18;1290:1,3; 1291:6,9;1293:14,15; 1294:7;1300:15; 1310:1,2;1313:16; 1314:24;1316:11; 1323:10;1332:10; 1337:1;1354:8; 1363:6,7,9;1364:5,6, 17;1366:2;1369:1,1; 1370:13;1379:7; 1385:10,25;1389:10; 1390:4,7,11,12,16; 1392:13,23;1393:3; 1396:14;1401:20; 1403:8;1419:25; 1425:24 <b>Fisher (1)</b> 1331:19 <b>fist (1)</b> 1293:11 <b>five (14)</b> 1223:11;1228:8; 1245:9;1279:12; 1334:1;1363:1,2; 1374:12;1385:14; 1386:2;1403:19,20, 23,23 <b>five-minute (1)</b> 1316:16 <b>fix (1)</b> 1341:24 <b>fixed (1)</b> 1327:8 <b>flag (2)</b> 1293:12;1314:1 <b>flexible (1)</b> 1419:18 <b>flip (1)</b> 1323:1 <b>floor (9)</b> 1261:15,18,20; 1283:17;1342:17; 1371:15;1373:25; 1374:1,9 <b>flying (3)</b> 1223:15;1418:13, 24 <b>focus (4)</b> 1316:10;1337:5; 1338:14;1416:9 <b>focusing (2)</b> 1327:24;1328:7 <b>folder (5)</b> 1253:18,21; 1289:17;1362:23; 1408:18 <b>folks (12)</b> 1216:5;1219:20;	1221:18;1225:15; 1226:3,16;1325:8; 1336:20;1414:22; 1415:8;1422:7; 1424:25 <b>follow (6)</b> 1317:9;1341:2; 1372:3,7,8;1374:6 <b>followed (1)</b> 1373:16 <b>following (3)</b> 1301:16;1308:15; 1374:7 <b>follows (7)</b> 1229:22;1247:14; 1290:11;1310:11; 1363:16;1389:18; 1409:22 <b>food (2)</b> 1393:6;1395:24 <b>forced (4)</b> 1244:2,7,10;1392:3 <b>forecasting (1)</b> 1227:14 <b>foremost (4)</b> 1247:5;1290:2; 1310:2;1363:6 <b>foresee (1)</b> 1419:15 <b>forget (1)</b> 1347:4 <b>Forgive (1)</b> 1358:15 <b>forgotten (1)</b> 1341:13 <b>form (30)</b> 1232:22;1233:2,7, 15,20;1234:2; 1251:22;1258:22; 1265:13,18;1266:5,9, 24;1267:18;1270:7; 1271:2,7;1272:12; 1273:15;1281:14,23; 1282:2;1286:14; 1287:15,22;1325:3; 1326:10;1333:19,20; 1354:14 <b>formal (1)</b> 1350:6 <b>formally (3)</b> 1226:4;1246:2,7 <b>format (1)</b> 1215:23 <b>former (1)</b> 1412:9 <b>forming (1)</b> 1273:3 <b>forms (7)</b> 1265:5;1269:23; 1280:17;1282:8; 1302:22;1303:4,7 <b>forth (2)</b> 1330:7;1424:7	<b>forward (3)</b> 1220:18;1293:25; 1414:19 <b>found (3)</b> 1240:2;1280:1; 1356:6 <b>Foundation (2)</b> 1296:5;1339:11 <b>four (11)</b> 1221:4,8;1233:10; 1255:16;1291:12,18; 1295:20;1300:15,16; 1379:13;1402:20 <b>free (5)</b> 1247:4;1300:24; 1346:23;1368:8; 1403:24 <b>French (3)</b> 1390:15,23; 1404:12 <b>frequently (2)</b> 1257:15;1283:8 <b>fresh (1)</b> 1335:11 <b>Friday (5)</b> 1313:9;1415:9,12, 22;1417:15 <b>fridges (1)</b> 1395:24 <b>friend (1)</b> 1258:24 <b>friendly (1)</b> 1340:24 <b>front (18)</b> 1251:13;1267:10; 1320:24;1328:13; 1329:4;1336:3; 1342:17;1353:24; 1357:22;1358:5; 1367:19;1384:13; 1386:21;1392:21,24; 1401:10;1414:11; 1426:2 <b>fucking (2)</b> 1328:8,13 <b>fulfilled (1)</b> 1278:14 <b>full (9)</b> 1215:12;1251:3; 1301:15;1388:2,4,9; 1410:24;1412:23; 1419:20 <b>fully (1)</b> 1420:20 <b>further (21)</b> 1225:16;1236:16; 1244:18,24;1262:8; 1288:12;1300:12; 1305:13;1346:9; 1352:5;1361:8,25; 1362:5;1374:10; 1387:21;1399:23; 1403:11;1407:12;	1413:23;1416:22; 1424:24 <b>future (1)</b> 1395:1 <b>G</b> <b>Galaxy (1)</b> 1410:16 <b>gaped (1)</b> 1412:11 <b>gave (17)</b> 1242:15;1272:14, 25;1295:7;1297:3; 1298:19;1319:3; 1330:9;1332:7; 1334:25;1368:23; 1369:18;1372:8; 1386:23;1393:20; 1394:24;1399:4 <b>Gavin (67)</b> 1315:2,3;1316:15, 18;1317:2,8,21,22,23; 1318:2,3,13,13,21; 1319:3;1325:4,8; 1328:8,17,24; 1329:18,18,24; 1330:16,24;1331:4,7, 15;1332:8;1334:8,14, 19;1337:23,25; 1338:4,7;1340:21,22; 1341:5,8,17,19; 1342:1,7;1343:8; 1344:12,22;1345:4; 1349:8,16;1350:14, 18;1351:2,10,13,22; 1352:6,9,25;1353:13; 1354:2,9,25;1359:21, 25;1361:22,23 <b>Gavin's (1)</b> 1354:19 <b>GC (43)</b> 1251:16;1254:3; 1259:17;1275:17,20; 1289:11;1294:23; 1296:19;1298:15; 1306:17,25;1307:10, 21,23;1308:1,3,6,11, 14,16,25;1309:1,2,3; 1319:17;1321:6; 1335:7,8;1336:13; 1353:18;1354:12,12; 1362:13;1367:7; 1388:10;1393:10; 1401:5;1409:10; 1411:9;1414:6,22; 1415:24;1419:22 <b>GC-30 (1)</b> 1336:15 <b>GC-30's (1)</b> 1336:21 <b>GC-78 (5)</b> 1251:12;1252:5;	1253:17,18,20 <b>GC-79 (3)</b> 1255:9,12,15 <b>GC-80 (2)</b> 1260:3,4 <b>GC-80's (1)</b> 1260:6 <b>GC-81 (3)</b> 1289:10,16; 1408:18 <b>GC-82 (2)</b> 1295:13,15 <b>GC-83 (1)</b> 1298:24 <b>GC-84 (1)</b> 1297:11 <b>GC-95 (5)</b> 1325:15;1326:15; 1347:2,4,16 <b>GC-95A (1)</b> 1324:11 <b>GC-97 (3)</b> 1367:25;1368:1; 1380:12 <b>GC-98 (1)</b> 1394:1 <b>GC-99 (1)</b> 1413:4 <b>GC's (4)</b> 1386:8;1387:16; 1425:20,22 <b>General (59)</b> 1214:8;1216:10; 1220:18;1222:18; 1223:2,18;1224:22, 25;1235:5,11,14,18; 1243:12;1245:20,24; 1246:1;1251:14; 1254:19;1255:13; 1259:18;1260:7; 1265:17;1275:16; 1294:25;1295:18; 1296:20;1297:14; 1298:16;1299:5,19; 1307:2;1309:16; 1319:18;1322:9; 1326:5,16;1335:10; 1336:22;1362:14; 1367:8;1368:7; 1382:20;1383:16; 1386:5,11,20; 1393:11;1394:7; 1408:3;1409:11; 1410:18;1413:9; 1415:5;1418:4,7,15; 1420:12;1422:15; 1423:21 <b>generally (2)</b> 1271:10;1327:18 <b>Genessee (3)</b> 1233:18;1238:20; 1307:21 <b>gets (1)</b>
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1371:22 <b>given (25)</b> 1232:21;1239:15; 1241:15;1242:19,21, 24;1243:21;1257:23; 1276:12,15,15,19,19, 21;1277:8;1282:1; 1296:2;1321:3; 1328:4;1332:4; 1335:1;1399:16; 1400:22;1418:11,12 <b>giving (5)</b> 1241:16;1262:2; 1317:22;1318:13; 1341:23 <b>glad (2)</b> 1354:22;1407:20 <b>glass (2)</b> 1321:12;1405:15 <b>goes (1)</b> 1323:4 <b>Good (31)</b> 1221:15,15; 1225:21;1226:18,20; 1229:17;1237:2,3; 1246:13,13;1263:5,6; 1289:9;1290:22; 1294:23;1301:6,7,8; 1309:22;1311:12; 1340:25;1363:11; 1374:22;1400:20; 1402:24;1404:10; 1409:25;1414:20; 1425:11;1426:1,4 <b>GOODE (232)</b> 1214:6,13,15,21; 1215:15,22;1216:1, 22,25;1217:15,21; 1218:1,5,10,13,15,23; 1219:1,3,6,8,12; 1220:1,5,9,13,15; 1221:6,14,21; 1224:19;1225:7,11; 1226:15,23;1227:5,9, 13,20,22;1228:4,7,10, 13,15,19,24;1229:3, 11,25;1230:5; 1231:18;1234:11,22; 1235:16,20;1236:16, 19;1240:15;1244:20, 22,24;1245:9,13,15; 1246:24;1247:17,21; 1249:6;1250:1,24; 1251:5,6;1252:5; 1253:22;1255:9,14; 1256:15;1259:11; 1260:3,8;1262:8,11; 1264:19;1267:6; 1268:3;1273:9; 1274:4;1275:4; 1277:18,21,23; 1278:18;1282:14,16; 1285:7;1288:12,24; 1289:2,12,14,19,22; 1290:14,16,18,21; 1291:3;1292:24; 1293:1,3,5;1295:13, 19;1296:10,17; 1297:11,15;1298:13, 24;1299:6,17; 1300:12,15;1306:7, 18,25;1307:3,10,14, 17,19,21;1308:11,19, 22,25;1309:18; 1320:6;1321:21; 1322:20,22;1362:25; 1363:19,23;1367:25; 1368:10;1372:6; 1374:10,12;1376:19; 1377:17;1382:20,24; 1383:6,9,16,20; 1384:21;1385:12,24; 1388:12,21,24; 1389:5,21;1390:1; 1394:1,11;1397:12; 1403:11,18;1404:4; 1407:14;1408:1,6,20, 22,25;1409:3,8,23; 1410:1,3;1411:8,15, 16,21,23,24;1412:2,4, 5,12,14,15,22;1413:4, 10,23;1414:7; 1415:10,12,14,17,19, 21,25;1416:3,5,14,20, 25;1417:8,13,16,18, 20;1419:15;1421:11, 15,18,20;1422:1,6; 1423:3,7,10;1424:4,6, 13,17 <b>Google (10)</b> 1232:22;1233:2,7; 1238:12,15,19,25; 1243:14,14,15 <b>gosh (1)</b> 1374:4 <b>Government (1)</b> 1224:14 <b>grab (7)</b> 1289:17;1319:24; 1329:23;1331:16; 1341:2,4,4 <b>G-R-A-Z- (1)</b> 1310:4 <b>Graziano (6)</b> 1309:21,25;1310:4, 4,9;1362:11 <b>great (6)</b> 1307:9;1310:25; 1399:12;1400:3,20; 1419:21 <b>greatest (1)</b> 1234:18 <b>green (2)</b> 1293:12;1333:18 <b>Greendale (1)</b> 1248:5	<b>grounds (2)</b> 1253:9;1357:5 <b>group (11)</b> 1217:17;1237:15, 16,21;1238:8,9,10; 1240:17;1355:22,22; 1396:12 <b>GroupMe (4)</b> 1396:16,17,22; 1403:7 <b>guess (14)</b> 1217:22;1228:15; 1234:18;1318:25; 1325:21;1330:25; 1337:13;1380:12; 1386:15;1387:12; 1388:5;1401:12; 1413:13;1424:9 <b>Guessing (1)</b> 1236:17 <b>guidance (1)</b> 1419:9 <b>guide (19)</b> 1263:8,11,14,16,20; 1303:17,19;1304:6,8; 1348:6,8,11,18; 1375:1,3;1404:13,16, 21;1405:5 <b>gun (1)</b> 1322:6 <b>guys (2)</b> 1325:13;1398:25  <b>H</b>  <b>half (12)</b> 1221:4,8;1226:5; 1257:23;1276:12,16, 22;1300:15,16; 1344:18;1402:20; 1425:14 <b>hand (10)</b> 1229:18;1247:10; 1290:7;1298:20; 1310:7;1363:12; 1365:24;1389:14; 1397:3,15 <b>handed (25)</b> 1264:6,10;1265:24; 1270:1;1274:9; 1317:14;1334:18,22; 1352:2,4,8;1353:22, 25;1354:1,14;1376:3; 1377:4;1379:16; 1396:18;1397:1,17; 1399:20;1402:2; 1406:20;1407:1 <b>handing (3)</b> 1398:1;1406:9,13 <b>handle (1)</b> 1246:3 <b>handwash (2)</b> 1371:17,23	<b>handwriting (6)</b> 1268:19;1320:21; 1324:20,22;1330:14; 1379:24 <b>handwritten (2)</b> 1327:19;1354:8 <b>Hang (2)</b> 1326:22;1403:24 <b>hanging (1)</b> 1228:3 <b>happen (3)</b> 1338:21;1357:11; 1401:25 <b>happened (25)</b> 1232:11,18; 1299:12;1300:5; 1314:7,23;1316:13; 1317:12;1331:14; 1333:5,14;1334:3,17; 1337:13;1340:13,23; 1343:12;1350:21; 1360:4;1370:16,25; 1373:13;1383:18; 1394:21;1398:9 <b>happening (1)</b> 1235:6 <b>happens (1)</b> 1222:23 <b>happy (7)</b> 1216:2;1225:12; 1243:6;1244:16; 1386:11;1399:13; 1402:16 <b>hard (2)</b> 1321:8;1402:20 <b>hat (2)</b> 1342:5;1344:15 <b>hate (2)</b> 1328:8,13 <b>hats (1)</b> 1342:4 <b>Hayes (1)</b> 1404:2 <b>He/him (3)</b> 1311:14;1364:2; 1390:3 <b>heading (5)</b> 1240:1;1383:2,3, 11;1384:18 <b>headings (1)</b> 1223:9 <b>heads (1)</b> 1214:20 <b>hear (6)</b> 1225:3;1251:3; 1291:17;1292:19; 1341:8;1373:14 <b>heard (7)</b> 1250:20;1342:20; 1372:10;1411:25; 1412:16;1413:13; 1423:8 <b>hearing (5)</b>	1209:12;1386:17; 1387:5;1425:18; 1426:7 <b>Hearsay (3)</b> 1249:20;1251:2; 1343:22 <b>Heather (6)</b> 1255:23;1365:2,3; 1369:19,23;1377:9 <b>held (1)</b> 1254:15 <b>Helena (11)</b> 1393:21;1398:5,8, 14;1399:6;1400:15; 1401:13,14,22; 1402:9,15 <b>Helena's (1)</b> 1398:11 <b>Helina (2)</b> 1401:14,22 <b>Hello (5)</b> 1229:12;1230:7; 1309:22;1363:25; 1389:9 <b>help (6)</b> 1240:20;1277:14; 1278:17,22;1365:15; 1388:4 <b>helped (1)</b> 1398:21 <b>helping (2)</b> 1261:21;1360:8 <b>herculean (1)</b> 1418:18 <b>herself (1)</b> 1401:15 <b>hesitate (1)</b> 1416:8 <b>hey (8)</b> 1217:5;1221:24; 1234:8;1235:7; 1369:24;1421:4; 1423:12,18 <b>Hi (11)</b> 1230:6;1263:4; 1311:9,10;1318:5; 1348:3,4;1363:24; 1389:8;1390:2; 1404:11 <b>hiatus (1)</b> 1224:13 <b>highlight (1)</b> 1289:3 <b>highlighted (1)</b> 1408:3 <b>highlighter (1)</b> 1408:23 <b>highlights (1)</b> 1408:7 <b>highly (1)</b> 1423:2 <b>Hire (2)</b> 1291:8;1312:1
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<b>hired (7)</b> 1248:4;1291:9; 1292:12,12;1293:14; 1364:17;1396:2 <b>history (1)</b> 1281:18 <b>Hold (8)</b> 1224:1;1231:20; 1292:5;1308:17; 1313:3;1331:21; 1364:15;1422:12 <b>holding (1)</b> 1365:25 <b>home (9)</b> 1331:15,16; 1333:15,23;1334:1; 1342:2;1346:6; 1355:1;1361:18 <b>honestly (5)</b> 1216:15;1354:6; 1399:18;1404:22; 1425:2 <b>honk (1)</b> 1392:22 <b>Honor (37)</b> 1218:17,19,23; 1260:3;1306:18; 1307:10,25;1308:3,5, 7;1309:20;1310:14; 1319:16;1320:4; 1323:2,20;1325:16; 1327:6;1331:21; 1335:7;1344:1; 1345:20;1346:10; 1347:3;1361:10; 1362:1,10,17;1385:8; 1388:25;1389:21; 1413:23;1414:7; 1417:13;1423:4,4; 1424:19 <b>hoop (1)</b> 1387:18 <b>hope (2)</b> 1229:5;1268:22 <b>hopefully (1)</b> 1327:8 <b>hoping (2)</b> 1421:5,6 <b>Hopkins (8)</b> 1389:5,6,7,8,11,12, 16;1408:10 <b>H-O-P-K-I-N-S (1)</b> 1389:12 <b>Hortons (2)</b> 1392:16;1393:5 <b>hour (5)</b> 1257:23;1262:2; 1344:18;1418:22; 1419:13 <b>hourly (2)</b> 1284:11,16 <b>hours (19)</b> 1256:25;1257:1,23;	1276:12,16,20,21; 1277:7,7,8;1279:11; 1284:20;1299:22; 1313:6;1344:18; 1395:8;1419:13,22; 1425:23 <b>house (1)</b> 1233:25 <b>housekeeping (2)</b> 1226:7;1414:9 <b>Howard (1)</b> 1314:18 <b>HR (3)</b> 1225:14;1402:10, 12 <b>hub (2)</b> 1404:24;1405:6 <b>Hunt (10)</b> 1269:14,17,20; 1272:11,21;1364:18, 19,22;1365:1; 1368:21  <b>I</b>  <b>I'll (1)</b> 1385:24 <b>I-A-N-O (1)</b> 1310:5 <b>idea (4)</b> 1296:6;1417:1,2,3 <b>ideas (1)</b> 1341:25 <b>identification (10)</b> 1251:16;1254:18; 1259:17;1294:23; 1296:19;1298:15; 1367:7;1393:10; 1409:9;1411:9 <b>identified (24)</b> 1251:14;1254:19; 1259:18;1264:7; 1265:25;1267:11; 1270:2;1274:10; 1294:25;1296:20; 1298:16;1307:2; 1319:18;1326:10; 1327:16,20;1335:10; 1362:14;1367:8; 1376:4;1377:5; 1393:11;1409:11; 1421:12 <b>identify (4)</b> 1224:8;1238:13; 1239:2;1411:4 <b>ignoring (1)</b> 1402:4 <b>illegible (1)</b> 1322:11 <b>imagine (3)</b> 1217:13;1419:13, 22 <b>immediately (3)</b>	1253:7;1270:17; 1272:21 <b>implications (1)</b> 1264:3 <b>important (2)</b> 1325:14;1424:21 <b>improve (2)</b> 1398:21;1400:3 <b>incident (7)</b> 1318:22;1344:11; 1345:3,4;1359:20; 1360:19;1361:22 <b>included (1)</b> 1254:4 <b>includes (2)</b> 1258:5;1375:9 <b>including (6)</b> 1270:23;1275:11; 1291:12;1348:20; 1375:14;1378:20 <b>Inconsistent (2)</b> 1318:9,11 <b>incorporated (1)</b> 1384:17 <b>indefinitely (1)</b> 1293:20 <b>index (2)</b> 1215:2;1421:23 <b>indicated (3)</b> 1227:15;1228:19; 1388:1 <b>indicates (1)</b> 1375:12 <b>indicating (1)</b> 1408:14 <b>indication (2)</b> 1399:16;1400:22 <b>indiscernible (1)</b> 1381:23 <b>indiscernible's (1)</b> 1297:5 <b>individual (2)</b> 1225:14;1227:15 <b>individually (2)</b> 1286:22;1287:15 <b>individuals (1)</b> 1239:20 <b>Informally (2)</b> 1281:1,2 <b>information (29)</b> 1232:7,9,20; 1249:21,22;1312:6; 1362:16;1386:10,19; 1395:2,14,19; 1396:10,25;1398:1; 1399:4,20;1403:2,2,5; 1406:5,6,7,10,11,15, 20;1407:2,2 <b>informed (1)</b> 1404:20 <b>infraction (3)</b> 1353:10,15;1369:3 <b>infractions (1)</b>	1272:23 <b>initial (3)</b> 1398:18;1402:5; 1410:4 <b>initially (9)</b> 1222:13;1229:5; 1276:11;1398:9; 1401:10,20,24; 1402:3,22 <b>inspect (1)</b> 1386:15 <b>instance (3)</b> 1305:5;1338:17; 1340:11 <b>instances (8)</b> 1265:3;1270:11; 1271:17,19;1282:1; 1286:5;1303:11,11 <b>instead (4)</b> 1272:23;1284:16; 1303:25;1408:1 <b>in-store (1)</b> 1397:19 <b>instructed (1)</b> 1256:21 <b>instructions (1)</b> 1258:4 <b>insubordinate (2)</b> 1342:14;1360:1 <b>int (1)</b> 1333:14 <b>intend (2)</b> 1224:6;1225:25 <b>intended (1)</b> 1295:25 <b>intends (1)</b> 1223:19 <b>intensive (1)</b> 1222:12 <b>intent (3)</b> 1235:3;1271:15,24 <b>intention (4)</b> 1221:21;1235:1; 1388:2;1416:8 <b>intentional (1)</b> 1276:18 <b>intentionally (2)</b> 1266:22;1273:17 <b>intentions (1)</b> 1224:1 <b>interest (1)</b> 1272:4 <b>interested (1)</b> 1273:2 <b>interesting (1)</b> 1423:21 <b>interim (2)</b> 1220:10;1385:10 <b>into (52)</b> 1223:17;1226:11; 1232:16;1255:13; 1260:7;1264:16,21; 1267:4,8,25;1268:5;	1274:7;1275:1,6,17; 1295:18;1297:14; 1299:5;1307:6; 1309:16;1317:2; 1321:6;1326:16; 1327:16;1329:6,9,21; 1331:16;1333:11; 1336:14,22;1340:13, 22;1341:3;1355:4,8; 1357:16;1368:7; 1376:17,21;1377:14, 19;1380:9,17;1394:7; 1400:11;1402:21; 1408:13;1413:4,9,11; 1424:25 <b>introduce (3)</b> 1223:17;1368:5,9 <b>introduced (2)</b> 1275:17;1401:15 <b>introduction (1)</b> 1408:13 <b>investigation (2)</b> 1372:9,11 <b>invited (2)</b> 1327:3;1386:9 <b>involved (6)</b> 1236:8,15;1289:2; 1292:7;1365:10,12 <b>involving (1)</b> 1414:12 <b>iPhone (1)</b> 1381:11 <b>issuance (2)</b> 1281:22;1308:16 <b>issue (18)</b> 1215:2;1225:6,8; 1226:9;1265:10,21; 1270:17;1281:6,10; 1295:25;1312:8; 1323:16;1385:23; 1409:7;1414:10,21, 24;1424:9 <b>issued (30)</b> 1214:10;1228:19; 1266:6;1270:8; 1271:23;1272:12; 1273:21;1274:14; 1282:7;1286:2; 1295:24;1348:6; 1350:17;1352:4,13, 19;1353:5,10; 1354:25;1359:17; 1375:1;1376:7,10,14, 24;1377:9;1380:1; 1382:10;1383:15; 1404:13 <b>issues (10)</b> 1216:11;1269:3,24; 1272:3,16;1281:5; 1309:15;1386:18; 1423:12;1425:6 <b>issuing (1)</b> 1272:16
---	---	--	--	---

<b>items (2)</b> 1341:4;1387:9	1216:4,9,15,20,23,24; 1217:3,7,16,21,25; 1218:4,9,12,14,15,22, 25;1219:2,5,7,9,13, 14,19;1220:1,3,7,10, 14,16,17,24;1221:1,7, 10,11,12,15,21,22; 1222:9,11,22; 1223:20,22;1224:20, 21;1225:9,15;1226:1, 2,12,15,16,21;1227:4, 8,12,13,18,21,24; 1228:6,9,11,14,18,22; 1229:2,7,12,17,23; 1230:1,2;1231:16; 1234:13;1235:19; 1236:16,17,20,23; 1240:16;1243:23,24; 1244:18,19,20,21,22, 24,25;1245:3,6,8,10, 11,14,16,19,20; 1246:4,9,10,13,18,20, 22,25;1247:1,2,9,15, 17,18;1249:3,5,15,21; 1250:19;1251:3,12; 1252:5,7;1253:9,12; 1255:9,10,11,12; 1256:13,17;1259:9; 1260:4,5,6;1261:2; 1262:8,9,11,12,14,16, 18,21,24,25;1263:1; 1264:17,18,20; 1267:4,5,6,7,25; 1268:2,4;1273:10,12, 24;1274:2,3,5;1275:1, 3,5;1277:20,24; 1278:20;1282:18; 1285:4,5;1288:12,13, 14,14,15,19,22,24; 1289:1,5,6,7,10,13,15, 20,23;1290:1,6,12,15, 16,17,19,20,21,22; 1291:1;1292:19,20, 22,25;1293:2,4; 1295:14,15,17; 1296:9,11;1297:11, 13;1298:7,9,12,25; 1299:2,4,14;1300:12, 13,16,17,19,20,22; 1301:2;1303:25; 1304:3;1306:5,6,7,8, 12,14,19,23;1307:7,8, 12,13,16,18,20,22; 1308:10,17,21,24; 1309:5,9,10,11,13,18, 19,22;1310:1,6,12,16, 18,20,23,25;1311:3,6; 1312:1,5,8,10;1318:1, 10,15;1319:6,8,19,20, 22,24;1320:7,8,11,14; 1321:8,11,14,18,20, 24;1322:3,5,8,14,17, 21,23;1323:4,6,8,12; 1324:1,4,7,8,10,15,17, 22,24;1325:1,5,7,11, 17,21,22;1326:1,8,14, 17,22,25;1327:3,7,9, 13,15,18;1330:20; 1331:2,4,10;1335:11, 14,17;1336:15,16,17, 20,23;1337:11,15; 1339:6,13;1343:23; 1344:2,6;1345:21; 1346:3,11,13,17,19, 21,22;1347:1,11,14, 16,18,21,23,25; 1350:8,10;1354:22; 1361:6,8,9;1362:2,4, 5,6,12,18,22;1363:2, 6,11,17,19,20; 1367:25;1368:1,2,4,6, 8;1371:12;1374:10, 11,12,13,17,19; 1376:18,20;1377:14, 16,18;1379:1,2,5,8,9; 1380:9,11,15,16; 1382:9,14,16,19,23, 25;1383:7,10,21,24; 1384:1,7,23,25; 1385:5,9,13,15,19,21, 25;1386:4,23,25; 1387:7,12,21,22,24; 1388:12,13,17,19,21, 23;1389:1,4,6,9,13, 19,23;1394:1,2,6,8; 1397:6,8,11;1403:11, 12,14,16,18,19,21,22; 1404:1,4,5;1407:12, 13,14,15,17,22,24; 1408:1,5,11,12,14,21, 22,23,25;1409:1,3,6, 8,12,15,23,25;1411:8, 11;1413:4,6,8,24; 1414:1,2,5,8,16,18, 24;1415:1,4,8,11,12, 13,16,18,20,22; 1416:1,4,7,10,15,22, 24;1417:6,9,14,17,19, 21,24;1418:1;1419:3, 7,9,16;1420:2,3,4,5, 10,17;1421:6,12,14, 17,19,25;1422:4,5,7, 15,19,21;1423:6,9,10, 11,20;1424:3,5,7,16, 21;1425:2,3,4,7; 1426:4	1365:5;1366:15,18; 1374:22;1375:22; 1424:13,13,14,18 <b>jump (1)</b> 1417:9 <b>jumped (2)</b> 1322:6;1387:18 <b>June (8)</b> 1247:25;1248:7; 1263:7;1285:1; 1291:21;1365:5; 1366:15;1424:12	1399:8;1415:16; 1421:3;1424:23 <b>kinds (2)</b> 1222:1,3 <b>Kirsten (1)</b> 1260:24 <b>KLJD (2)</b> 1408:4,6 <b>knew (7)</b> 1263:24;1279:19, 22;1280:2;1334:23; 1401:24;1404:22 <b>knowing (1)</b> 1401:22 <b>knowledge (9)</b> 1253:10;1284:10, 17;1296:1;1300:6,9; 1336:11;1340:1,4 <b>known (9)</b> 1271:10,24;1272:4, 7;1273:4;1292:11; 1357:14;1364:9; 1420:13 <b>Krowalski (3)</b> 1339:25;1358:17, 18
<b>J</b>		<b>K</b>	<b>L</b>
<b>jacket (1)</b> 1392:21 <b>Jacobs (4)</b> 1341:7;1343:17; 1351:7,8 <b>January (17)</b> 1233:3;1249:18; 1253:5,6,15;1259:4,4, 5,5,12;1260:11; 1264:23;1271:1; 1285:9;1302:10,11; 1401:5 <b>Jason (6)</b> 1229:11,15,20; 1230:6,8;1234:5 <b>J-A-S-O-N (1)</b> 1229:15 <b>Javon (1)</b> 1374:2 <b>Jencks (11)</b> 1236:17;1262:9; 1300:14;1383:3,11, 22;1384:18,25; 1385:2,23;1403:15 <b>jeopardy (1)</b> 1341:23 <b>job (5)</b> 1244:17;1341:22; 1400:3,20;1402:19 <b>Jody (16)</b> 1232:5,6,7,15,21; 1234:24;1235:10; 1236:8;1237:6,10,18; 1238:2;1239:1,11; 1240:3,8 <b>Joe (1)</b> 1294:4 <b>JOHN (2)</b> 1363:14;1409:20 <b>Johnson (1)</b> 1251:23 <b>join (1)</b> 1366:14 <b>Jovan (16)</b> 1363:9,24;1364:1, 3;1365:7;1368:11; 1369:13;1370:13; 1409:3,15;1410:4; 1411:17,25;1412:6, 23;1413:11 <b>J-O-V-A-N (1)</b> 1363:9 <b>Jovan's (1)</b> 1409:8 <b>JUDGE (585)</b> 1209:13;1214:3,6, 12,14,17,19,23; 1215:3,6,14,19,25;	1324:1,4,7,8,10,15,17, 22,24;1325:1,5,7,11, 17,21,22;1326:1,8,14, 17,22,25;1327:3,7,9, 13,15,18;1330:20; 1331:2,4,10;1335:11, 14,17;1336:15,16,17, 20,23;1337:11,15; 1339:6,13;1343:23; 1344:2,6;1345:21; 1346:3,11,13,17,19, 21,22;1347:1,11,14, 16,18,21,23,25; 1350:8,10;1354:22; 1361:6,8,9;1362:2,4, 5,6,12,18,22;1363:2, 6,11,17,19,20; 1367:25;1368:1,2,4,6, 8;1371:12;1374:10, 11,12,13,17,19; 1376:18,20;1377:14, 16,18;1379:1,2,5,8,9; 1380:9,11,15,16; 1382:9,14,16,19,23, 25;1383:7,10,21,24; 1384:1,7,23,25; 1385:5,9,13,15,19,21, 25;1386:4,23,25; 1387:7,12,21,22,24; 1388:12,13,17,19,21, 23;1389:1,4,6,9,13, 19,23;1394:1,2,6,8; 1397:6,8,11;1403:11, 12,14,16,18,19,21,22; 1404:1,4,5;1407:12, 13,14,15,17,22,24; 1408:1,5,11,12,14,21, 22,23,25;1409:1,3,6, 8,12,15,23,25;1411:8, 11;1413:4,6,8,24; 1414:1,2,5,8,16,18, 24;1415:1,4,8,11,12, 13,16,18,20,22; 1416:1,4,7,10,15,22, 24;1417:6,9,14,17,19, 21,24;1418:1;1419:3, 7,9,16;1420:2,3,4,5, 10,17;1421:6,12,14, 17,19,25;1422:4,5,7, 15,19,21;1423:6,9,10, 11,20;1424:3,5,7,16, 21;1425:2,3,4,7; 1426:4 <b>Judges (1)</b> 1424:1 <b>judicial (1)</b> 1309:14 <b>July (21)</b> 1215:10,17; 1254:12,12;1262:1; 1272:13;1285:1,1; 1315:24;1349:8; 1356:17;1364:6;	<b>Kae (50)</b> 1260:24,25;1261:2, 4,6,10,14,14,22; 1282:21,24;1283:3,6, 9,12,23,24;1295:8; 1297:4;1298:20; 1365:6;1367:3,15; 1371:14;1372:18,21, 24;1373:1,5,9; 1374:4;1380:1,6,20; 1384:15;1393:21,22, 23;1395:12;1398:8, 14;1399:6;1400:15; 1401:12,21;1402:15; 1410:6,25;1411:20; 1412:24 <b>Kae's (1)</b> 1295:9 <b>keep (7)</b> 1288:18;1291:14; 1307:14,16,18; 1316:23;1399:13 <b>Keller (7)</b> 1232:5,6,7; 1234:24;1235:10,21; 1236:1 <b>Kenmore (6)</b> 1248:17;1260:17; 1265:1,10;1269:1; 1285:12 <b>kept (8)</b> 1330:6,6;1342:6, 23;1397:19,21; 1399:8;1405:9 <b>Kevin (2)</b> 1251:7,23 <b>Kifner (11)</b> 1260:24;1282:21; 1295:10;1365:6; 1367:3,15;1371:14; 1380:1;1393:21,22,23 <b>kind (19)</b> 1217:13;1218:8,15, 16;1222:14,14,25; 1287:25;1312:5; 1316:25;1318:3; 1322:6;1329:20; 1331:2;1388:6;	<b>1399:8;1415:16; 1421:3;1424:23</b> <b>kinds (2)</b> 1222:1,3 <b>Kirsten (1)</b> 1260:24 <b>KLJD (2)</b> 1408:4,6 <b>knew (7)</b> 1263:24;1279:19, 22;1280:2;1334:23; 1401:24;1404:22 <b>knowing (1)</b> 1401:22 <b>knowledge (9)</b> 1253:10;1284:10, 17;1296:1;1300:6,9; 1336:11;1340:1,4 <b>known (9)</b> 1271:10,24;1272:4, 7;1273:4;1292:11; 1357:14;1364:9; 1420:13 <b>Krowalski (3)</b> 1339:25;1358:17, 18
			<b>LABOR (12)</b> 1209:2,14;1225:13; 1241:16;1242:16; 1243:12;1366:20; 1381:2,14,20; 1382:10,17 <b>Lancaster (1)</b> 1230:21 <b>language (1)</b> 1288:5 <b>last (25)</b> 1216:16,18;1218:1, 15;1229:14,15; 1287:3;1290:5,24; 1295:9;1310:3; 1317:14;1334:8; 1340:9;1358:15,15; 1360:9;1361:5; 1363:8,10;1388:20; 1389:10;1398:11; 1418:9;1424:8 <b>late (45)</b> 1232:16,17; 1255:17,20,25; 1259:7;1261:22; 1262:2;1264:24; 1265:3;1268:8,12; 1269:10;1274:16,19, 20,20,21,23;1280:16, 20;1281:18;1283:4,6, 9,14,24;1295:22; 1299:10,15;1303:1; 1304:18;1305:3; 1337:7,9,24;1338:2,8,



11;1345:1;1370:8; 1377:2;1378:11,14; 1391:8 <b>lateness (4)</b> 1270:11;1271:17, 19;1286:5 <b>latenesses (3)</b> 1271:12,22; 1286:10 <b>later (14)</b> 1228:16;1229:6; 1231:5;1256:20; 1299:22;1302:13; 1333:25;1337:23; 1338:4;1372:22; 1390:10;1398:2,3; 1422:21 <b>laughed (1)</b> 1402:13 <b>launch (2)</b> 1258:7,7 <b>Lauren (1)</b> 1360:14 <b>LAW (2)</b> 1209:13;1424:1 <b>lawyers (1)</b> 1402:23 <b>layout (1)</b> 1395:10 <b>lead (4)</b> 1219:19;1237:4; 1312:3;1317:10 <b>leading (8)</b> 1232:6;1319:5; 1330:19,20;1331:1; 1339:5;1344:5; 1346:2 <b>leads (1)</b> 1220:6 <b>Leann (7)</b> 1341:7;1343:17,20; 1344:4;1351:7,8; 1360:7 <b>learned (1)</b> 1268:21 <b>least (11)</b> 1237:20;1238:5; 1254:13;1274:19; 1326:20;1377:21; 1378:7,8,11;1379:12, 13 <b>leave (12)</b> 1226:3;1243:9; 1288:19;1306:14; 1343:6;1355:8; 1357:16;1364:22; 1381:22;1402:17; 1405:2;1407:18 <b>leaving (1)</b> 1404:2 <b>left (12)</b> 1294:2,19;1306:17; 1331:17;1334:25;	1343:12;1347:12; 1364:23;1379:22; 1400:12;1401:11; 1425:20 <b>left-hand (1)</b> 1267:1 <b>legs (2)</b> 1300:24;1346:23 <b>lends (1)</b> 1222:24 <b>less (3)</b> 1330:20;1392:15; 1421:5 <b>letter (14)</b> 1251:7,10,22; 1252:19;1253:4,14, 25;1254:3;1309:1; 1314:15,17,18; 1385:16;1415:2 <b>letters (1)</b> 1392:12 <b>level (3)</b> 1284:5;1332:9,10 <b>liar (1)</b> 1328:19 <b>liberties (1)</b> 1373:7 <b>lie (1)</b> 1404:14 <b>light (1)</b> 1356:23 <b>likelihood (2)</b> 1219:10;1419:21 <b>likely (2)</b> 1219:9;1421:5 <b>Likewise (1)</b> 1388:3 <b>limit (1)</b> 1422:24 <b>limited (5)</b> 1224:4;1408:15; 1409:4;1416:16; 1423:15 <b>limits (1)</b> 1222:14 <b>line (7)</b> 1219:24;1255:7,8; 1260:10;1278:15; 1328:7;1400:5 <b>lined (2)</b> 1217:23;1227:9 <b>lines (1)</b> 1317:5 <b>list (5)</b> 1240:6;1308:8,13, 15,19 <b>listed (15)</b> 1234:16,20; 1238:12,20;1255:16; 1259:3;1261:17; 1287:14,22;1295:20; 1299:8;1334:19; 1337:2;1379:16;	1395:12 <b>listen (1)</b> 1225:12 <b>litigated (1)</b> 1222:2 <b>little (14)</b> 1227:16;1233:12; 1256:23;1292:20; 1297:22;1316:16; 1322:7;1323:22; 1333:7;1334:5; 1374:3;1414:8; 1415:18;1425:20 <b>lives (1)</b> 1423:16 <b>lobby (7)</b> 1334:11;1342:18, 19;1359:22;1367:19; 1397:18;1398:16 <b>local (1)</b> 1418:20 <b>located (5)</b> 1248:2,4;1356:5; 1405:16;1418:24 <b>location (11)</b> 1230:19;1232:1; 1234:17;1248:5,17, 22;1251:24;1260:17; 1285:14;1291:13; 1301:10 <b>locations (1)</b> 1243:17 <b>logistics (2)</b> 1306:16,21 <b>logo (4)</b> 1250:9;1332:15; 1392:8,8 <b>long (14)</b> 1218:23;1248:6; 1257:20;1279:6,10, 13;1291:11;1300:17; 1312:22;1390:19; 1396:9;1403:17,17; 1425:14 <b>longer (3)</b> 1218:7;1332:20; 1405:20 <b>look (31)</b> 1216:2,6;1219:22; 1221:3,17;1232:10; 1251:15;1253:20; 1254:20;1255:15; 1259:19;1285:8; 1286:17;1287:3,25; 1294:22;1295:1,20; 1296:21;1309:9; 1356:8;1367:9; 1384:18;1385:10; 1393:12;1404:25; 1413:16;1414:19; 1419:17;1421:24; 1422:3 <b>looked (4)</b>	1355:12,13;1404:2; 1424:25 <b>looking (12)</b> 1221:25;1268:7; 1333:18,20,21; 1336:25;1345:24; 1384:10;1402:15; 1405:1,14;1424:22 <b>looks (3)</b> 1215:23;1323:18; 1327:18 <b>Lord (1)</b> 1294:23 <b>lost (1)</b> 1384:10 <b>lot (7)</b> 1215:6;1216:25; 1217:1;1219:21; 1333:6,7;1342:14 <b>lotions (1)</b> 1371:17 <b>lounge (1)</b> 1334:13 <b>lunch (5)</b> 1227:6;1229:6; 1395:9;1419:24; 1425:25 <b>lying (1)</b> 1329:1	1260:18,23,24; 1261:3,4,6;1269:14; 1272:11,14,17; 1282:21,24;1283:19, 23;1284:7;1285:12, 17;1295:8;1297:4,21, 24;1298:20;1304:25; 1305:9,15,16,25; 1315:2;1317:13,18; 1334:9;1337:14,22; 1338:23;1340:19; 1345:11;1357:15,15, 17,21;1358:9; 1360:22;1364:17,19; 1365:3,5;1366:24; 1367:2;1368:20; 1371:3;1373:20; 1375:9;1393:23,24; 1399:19;1403:8; 1406:13,23 <b>managers (6)</b> 1272:18;1284:4,10; 1305:2;1338:8; 1399:21 <b>manager's (5)</b> 1236:10;1255:22; 1260:10;1372:25; 1395:23 <b>many (17)</b> 1233:11;1237:9,18; 1238:3;1239:17,20; 1240:1,17;1261:25; 1294:14;1303:4; 1306:17;1313:6; 1325:3;1345:9; 1349:11;1358:4 <b>Maple (1)</b> 1234:16 <b>March (25)</b> 1232:18;1248:18, 19,22;1255:1; 1256:15;1257:11,25; 1258:1,10;1259:6; 1276:4;1278:4; 1279:3,4,6,14,22; 1280:12;1285:16,25; 1312:25;1369:14; 1377:9;1413:17 <b>Marcus (11)</b> 1389:5,6,11,16; 1390:2;1391:16; 1392:14;1393:9; 1394:12;1403:1; 1408:9 <b>M-A-R-C-U-S (1)</b> 1389:11 <b>mark (4)</b> 1324:9,11;1326:18, 23 <b>marked (24)</b> 1251:15;1254:3,17; 1259:16;1264:6; 1265:24;1266:24;

1270:1;1274:9; 1288:24;1294:22; 1296:18;1298:14; 1306:25;1324:6,7,8; 1335:8;1367:6; 1376:3;1377:4; 1393:9;1409:9; 1411:9 <b>market (2)</b> 1263:10,13 <b>marketing (1)</b> 1258:5 <b>material (3)</b> 1324:2;1383:3; 1384:25 <b>materials (1)</b> 1416:2 <b>math (1)</b> 1262:18 <b>Matter (5)</b> 1209:4,12;1421:15; 1422:14;1426:8 <b>matters (1)</b> 1365:16 <b>Mauche (8)</b> 1290:4,4,5,9,13; 1397:13,14;1408:9 <b>M-A-U-C-H-E (1)</b> 1290:5 <b>may (24)</b> 1219:13;1220:20; 1223:14;1224:3; 1254:10;1261:5,6; 1262:1;1284:23; 1286:17;1345:19; 1374:9;1384:1; 1386:23;1414:14,15, 16;1417:13,14,21; 1418:14;1425:17; 1426:5,8 <b>maybe (17)</b> 1215:8,20,20; 1217:16;1225:15; 1227:6;1233:24,25; 1234:7;1237:11; 1323:12;1331:4; 1349:3;1409:1; 1418:16;1419:13,14 <b>McManus (2)</b> 1285:11,17 <b>mean (43)</b> 1214:25;1215:22; 1216:1;1218:21; 1219:19;1227:20; 1228:10,13;1229:1; 1230:11;1240:13; 1242:20;1246:4; 1253:13;1270:20; 1273:10;1281:2; 1284:15;1312:19; 1316:22;1322:22; 1323:7;1324:20; 1325:14;1329:1;	1334:22;1337:12; 1347:7;1350:6; 1357:22;1383:6,16; 1384:21,22;1385:1,3, 6;1387:25;1392:19; 1416:3,8;1422:2,6 <b>means (3)</b> 1223:8;1284:13,16 <b>meant (6)</b> 1240:11;1253:24; 1277:6,9;1369:8,9 <b>media (2)</b> 1252:15;1253:24 <b>meeting (3)</b> 1319:11;1321:4; 1380:19 <b>meetings (3)</b> 1235:21;1236:12, 13 <b>meets (1)</b> 1342:18 <b>Melanie (17)</b> 1298:2,9;1299:16, 18,23,23;1304:18,21; 1305:7,11,13,18,24; 1370:24;1373:16; 1374:5,6 <b>member (4)</b> 1281:11,21; 1356:22;1365:17 <b>members (1)</b> 1257:6 <b>Memphis (1)</b> 1392:7 <b>mentally (1)</b> 1239:25 <b>mention (4)</b> 1243:13,14; 1318:21;1345:15 <b>mentioned (24)</b> 1237:17,23; 1238:10;1240:10; 1245:22;1257:4; 1258:2;1281:4; 1284:23;1305:8,18; 1306:20;1331:24; 1352:9,15,19;1357:6; 1358:14,24;1366:8, 16;1369:7;1395:18; 1424:10 <b>mentioning (3)</b> 1243:17;1281:4,5 <b>menu (3)</b> 1258:6,8,9 <b>Merly (5)</b> 1317:13,16;1325:4, 5;1354:10 <b>mess (1)</b> 1370:7 <b>message (2)</b> 1305:22;1370:23 <b>messed (2)</b> 1258:22,24	<b>met (1)</b> 1342:13 <b>Michael (11)</b> 1329:13,14,21; 1331:19;1333:6,11; 1352:16,18;1355:4, 21;1356:6 <b>Mid (1)</b> 1313:12 <b>mid- (1)</b> 1257:2 <b>mid-afternoon (1)</b> 1279:9 <b>middle (2)</b> 1255:16;1400:1 <b>mid-March (1)</b> 1364:23 <b>might (18)</b> 1215:19;1221:24; 1226:24;1228:11; 1263:16;1321:12; 1323:24;1381:23; 1386:17;1387:1,3; 1388:4;1408:23; 1410:8;1417:2,3; 1421:4;1423:17 <b>mike (1)</b> 1308:2 <b>Miller (2)</b> 1381:24;1382:4 <b>Miller's (1)</b> 1382:1 <b>million (2)</b> 1221:5,8 <b>mind (2)</b> 1350:15;1398:6 <b>mindset (2)</b> 1222:2;1223:10 <b>Mine (4)</b> 1320:22;1332:16; 1377:13;1395:16 <b>minimum (1)</b> 1279:18 <b>minute (5)</b> 1289:20;1306:20; 1345:20;1360:15; 1409:13 <b>minutes (19)</b> 1245:9;1255:25; 1262:2;1268:9,9,9; 1274:20,20,21; 1289:22,23;1334:1,1, 2;1363:1,2;1378:11; 1385:14;1386:2 <b>misremembered (1)</b> 1266:16 <b>missed (2)</b> 1215:16;1370:22 <b>missing (2)</b> 1215:20;1424:17 <b>misspoke (1)</b> 1310:22 <b>mistaken (2)</b>	1233:23;1372:23 <b>mistakes (1)</b> 1268:22 <b>modified (1)</b> 1356:19 <b>moment (10)</b> 1224:1;1242:10; 1243:23;1306:16; 1311:4;1341:21; 1361:6;1373:6; 1384:1;1398:12 <b>Monday (13)</b> 1209:15;1214:3; 1220:4;1223:21; 1262:19;1313:9; 1417:17;1418:2,16; 1419:17;1422:23; 1423:18;1426:8 <b>month (4)</b> 1286:8;1376:14; 1398:2,3 <b>months (12)</b> 1291:12,18; 1302:13;1331:8; 1353:1,14;1369:9,11; 1370:7,12;1413:19; 1420:13 <b>more (29)</b> 1216:15;1217:3; 1219:15;1226:4; 1227:17;1240:24; 1241:2;1246:6,11; 1253:16;1278:10; 1291:12;1294:16; 1308:18;1318:21; 1323:2;1374:15; 1378:11;1392:15; 1394:9;1395:8; 1399:10;1406:8; 1413:19;1414:6,7; 1418:11;1419:19; 1425:23 <b>Moreover (1)</b> 1418:13 <b>morning (12)</b> 1215:2;1216:13; 1226:14;1227:2; 1228:2;1237:2,3; 1258:23;1262:18; 1300:5;1305:17; 1424:10 <b>most (7)</b> 1255:22;1314:2; 1342:13;1397:20; 1406:2;1419:12; 1425:22 <b>mostly (4)</b> 1293:12;1393:4; 1398:20;1419:23 <b>motion (3)</b> 1225:22;1226:9; 1246:6 <b>motioned (2)</b>	1317:9;1351:19 <b>Move (25)</b> 1231:14;1234:11; 1235:16;1249:13; 1255:9;1260:3; 1264:16;1267:4,25; 1275:1;1282:14; 1295:13;1297:11; 1298:24;1318:8; 1321:6;1336:13; 1367:25;1369:5; 1376:17;1377:14; 1379:3;1380:9; 1394:1,9 <b>moved (2)</b> 1231:12;1273:24 <b>MS&gt; (1)</b> 1362:3 <b>much (13)</b> 1225:7;1244:25; 1245:5;1288:15; 1306:8;1323:1; 1329:2;1333:25; 1362:7;1371:8; 1387:12;1402:18; 1407:17 <b>multiple (17)</b> 1237:6;1264:25; 1265:5;1272:23; 1274:16;1286:23; 1314:1;1338:24; 1339:16;1357:7,16; 1359:13;1375:17; 1376:1;1378:19; 1392:2;1402:7 <b>Murdaugh (3)</b> 1397:4,4,7 <b>Murders (1)</b> 1397:7 <b>must (3)</b> 1270:17;1308:13; 1384:11 <b>myself (3)</b> 1234:19;1245:21; 1294:4
<b>N</b>				
<b>Najee (3)</b> 1412:11,17,18 <b>name (36)</b> 1229:13,15;1233:8; 1236:10,11;1238:1; 1247:5,7;1251:25; 1252:3;1285:11; 1290:2,4,5,24; 1291:23;1295:9; 1310:2;1317:14; 1334:8;1339:20,20; 1358:14,15,16; 1360:10;1361:5; 1363:7,9,10;1380:13; 1389:9;1395:7,15;				

1398:11;1402:16 <b>named (1)</b> 1300:1 <b>names (4)</b> 1240:1;1342:11,12; 1359:23 <b>nametag (3)</b> 1341:9,13,15 <b>NATIONAL (12)</b> 1209:2,14;1241:16; 1242:16;1243:12; 1365:18;1366:11; 1381:2,14,20; 1382:10,16 <b>native (1)</b> 1215:22 <b>nature (1)</b> 1416:19 <b>NCAT (2)</b> 1365:17;1366:9 <b>necessarily (1)</b> 1242:20 <b>necessary (2)</b> 1225:17;1372:3 <b>need (23)</b> 1215:4,13;1220:6; 1221:3,24;1223:6,8; 1234:18;1261:20; 1287:3;1350:10; 1371:19;1373:25; 1386:17;1415:7; 1417:3;1418:19; 1421:24;1423:13,18; 1424:5,7;1425:10 <b>needed (8)</b> 1240:10,19,23,25; 1280:11;1351:14,15, 16 <b>needing (1)</b> 1343:20 <b>needs (9)</b> 1221:17;1233:13; 1239:2,8,14;1240:22, 22;1243:2;1317:4 <b>negative (1)</b> 1264:3 <b>Netflix (1)</b> 1397:4 <b>New (11)</b> 1209:15;1220:23; 1258:6;1272:11,14; 1347:4,8,19;1408:17; 1418:8;1425:19 <b>newer (1)</b> 1347:8 <b>next (21)</b> 1214:21;1226:19; 1229:10;1245:9; 1246:25;1256:22; 1258:23;1286:17; 1288:23;1289:18; 1309:20;1317:8; 1339:19;1350:23;	1360:7;1362:25; 1369:6;1388:19,20; 1395:24;1398:19 <b>NG (1)</b> 1290:14 <b>nice (1)</b> 1245:7 <b>Nicholas (1)</b> 1403:8 <b>Nick (1)</b> 1404:22 <b>nickname (1)</b> 1248:25 <b>night (3)</b> 1216:16,18;1307:5 <b>nine (7)</b> 1215:8;1290:16,17, 17;1300:16;1411:23; 1425:18 <b>NLRA (1)</b> 1381:1 <b>NLRB (4)</b> 1382:1;1406:2; 1410:18,19 <b>nodding (1)</b> 1303:23 <b>Non- (4)</b> 1231:14;1234:11; 1249:13;1395:11 <b>non-coverage (1)</b> 1261:19 <b>none (1)</b> 1419:14 <b>nonetheless (3)</b> 1273:6;1349:5; 1385:22 <b>non-unionized (3)</b> 1333:21;1355:13, 16 <b>normal (5)</b> 1224:15;1340:15, 24;1341:17;1394:22 <b>normally (3)</b> 1334:5;1387:2; 1395:11 <b>notation (1)</b> 1394:4 <b>note (12)</b> 1215:7;1336:18; 1362:18;1371:16,18; 1372:1;1382:9,12; 1384:9;1421:11; 1422:25;1423:3 <b>Noted (1)</b> 1214:2 <b>notes (4)</b> 1353:20;1354:8; 1371:19,25 <b>nothing's (1)</b> 1402:12 <b>notice (33)</b> 1209:13;1243:13; 1259:25;1260:22,25;	1261:7;1262:3; 1265:8,19;1266:17; 1267:23;1270:16; 1283:8;1298:18; 1300:7;1309:14; 1316:7;1334:18; 1335:1,23,24;1336:9; 1345:2,24;1367:14; 1369:2,10;1375:16; 1379:19;1380:2; 1413:12,20;1417:11 <b>notification (2)</b> 1271:14,14 <b>notified (3)</b> 1295:25;1296:6,12 <b>notify (1)</b> 1406:23 <b>notifying (2)</b> 1304:21;1375:9 <b>noting (1)</b> 1394:3 <b>notion (2)</b> 1418:14;1421:21 <b>November (9)</b> 1242:16;1288:6; 1366:5;1382:7; 1393:3,7;1394:19; 1397:15;1399:24 <b>number (7)</b> 1214:10,25;1233:8; 1255:24;1290:15; 1384:19;1396:3 <b>numbers (3)</b> 1395:2,15;1400:4	1339:5,11;1343:22; 1344:5;1346:2; 1368:1,2;1371:11; 1376:18,19;1377:16, 17;1394:2,3;1413:6, 7;1422:25 <b>objections (1)</b> 1309:11 <b>objects (1)</b> 1362:19 <b>obligated (1)</b> 1421:21 <b>Obviously (7)</b> 1216:5;1243:1; 1244:12;1386:16; 1387:3;1414:20; 1420:22 <b>occasion (1)</b> 1305:2 <b>occasionally (1)</b> 1283:5 <b>occasions (8)</b> 1238:1;1264:25; 1274:16,19;1378:11, 19;1379:14;1402:7 <b>occur (2)</b> 1369:3;1421:10 <b>occurred (8)</b> 1256:9;1271:13,13, 23;1295:5;1353:11, 15;1401:19 <b>occurrence (1)</b> 1259:12 <b>occurrences (1)</b> 1259:14 <b>occurring (3)</b> 1271:18,19; 1383:19 <b>o'clock (3)</b> 1218:2;1245:14; 1425:18 <b>October (20)</b> 1286:23;1287:9,11, 20;1288:6,9;1297:2; 1299:8;1311:20; 1332:25;1333:3; 1338:7;1339:3; 1345:3;1366:4; 1370:14;1372:8,12, 12;1379:12 <b>off (52)</b> 1216:5;1217:4; 1225:16,18;1228:7; 1245:16;1262:18; 1289:20,21;1298:21; 1306:20;1314:25; 1315:1,4,6,8,16,17; 1318:25;1334:19; 1337:17;1345:1; 1346:22;1349:8,17, 19;1350:3,5,14,18; 1356:6;1360:18; 1361:23;1363:2,3;	1373:21;1384:7; 1385:14;1386:2,4; 1389:1;1396:18,18; 1397:9;1398:1; 1402:13,21;1404:17; 1405:1;1409:12; 1422:12;1426:4 <b>offer (13)</b> 1221:19;1223:4; 1225:25;1252:5; 1307:5,6,17;1325:12, 13,15;1408:2;1413:4; 1416:12 <b>offered (2)</b> 1343:23,24 <b>offering (1)</b> 1306:25 <b>office (2)</b> 1315:5;1316:23 <b>official (1)</b> 1258:22 <b>often (7)</b> 1250:13;1257:14; 1261:9,24;1283:6; 1293:13;1314:3 <b>ok (4)</b> 1231:11;1293:23; 1343:18;1415:4 <b>old (2)</b> 1258:8;1347:18 <b>once (12)</b> 1225:17;1238:5; 1242:19;1293:19; 1309:23;1358:5; 1370:12;1387:25; 1407:19;1409:7; 1413:1;1414:2 <b>one (114)</b> 1214:15;1215:6,12; 1217:12;1218:2,5; 1223:5;1224:24; 1228:1;1235:7; 1237:20;1238:6,9,10; 1243:23;1250:10; 1254:13;1257:7,8,8, 24;1258:13;1263:17; 1267:13;1270:4; 1274:20,20,21; 1276:12,15,22; 1281:4,8;1286:17; 1287:14,21;1288:9, 14;1293:11,12; 1300:16;1307:6; 1308:17,18;1311:3; 1313:9;1314:1,2,8,9, 21;1315:9,15,18; 1320:1,6;1321:12; 1322:18;1323:16; 1325:7,11;1326:22; 1331:21;1333:21; 1336:16;1339:7; 1343:24;1345:10,19; 1346:15;1347:18;
---	---	---	---	---

1349:1;1350:20; 1354:16,19;1355:12, 12,23,24,25;1356:2; 1358:6,20;1360:19; 1361:6;1365:22,23; 1366:18,21,23; 1371:17;1377:21,23; 1381:22;1383:13; 1386:18;1390:21; 1392:7,7,13;1393:3,4; 1398:5,7,16;1399:18; 1400:11;1403:9; 1406:8;1412:9; 1417:9;1418:1,23; 1421:14 <b>one- (1)</b> 1237:18 <b>one-on-one (2)</b> 1237:16;1238:7 <b>one-on-ones (1)</b> 1237:15 <b>ones (5)</b> 1239:15;1250:11; 1293:8;1294:18; 1355:23 <b>one's (2)</b> 1287:11,20 <b>one-year (1)</b> 1365:23 <b>ongoing (1)</b> 1372:9 <b>online (2)</b> 1355:24;1356:2 <b>only (28)</b> 1220:5;1227:18; 1235:17;1242:6; 1257:23;1276:12,15; 1277:8;1282:5; 1289:15;1314:24; 1315:9,15;1322:23; 1345:10;1347:5; 1349:1;1350:6; 1352:18;1358:6; 1383:13;1392:25; 1404:17;1418:22; 1420:17,18;1424:12; 1425:23 <b>on-ones (1)</b> 1237:19 <b>open (6)</b> 1342:19;1370:17, 20;1373:16;1394:23; 1402:18 <b>opened (1)</b> 1238:19 <b>opening (4)</b> 1242:1;1338:12; 1419:23;1425:24 <b>opportunity (5)</b> 1216:14;1296:2; 1300:10;1370:22; 1423:25 <b>opposed (1)</b>	1223:14 <b>option (11)</b> 1233:20;1234:21; 1238:23;1241:12,15, 20;1242:17,19,20,22, 24 <b>options (1)</b> 1243:21 <b>order (4)</b> 1225:5;1340:24; 1341:1;1382:18 <b>organize (3)</b> 1314:19;1365:15; 1366:12 <b>orientation (2)</b> 1321:16;1347:9 <b>original (5)</b> 1221:6;1235:1,3; 1240:6;1392:8 <b>originally (1)</b> 1276:23 <b>others (2)</b> 1234:19;1239:17 <b>otherwise (1)</b> 1364:9 <b>ours (1)</b> 1383:14 <b>out (64)</b> 1218:18;1224:25; 1228:3;1229:9; 1232:22;1233:10; 1238:17;1240:2; 1247:4;1279:1; 1280:1;1298:21; 1304:17;1306:21; 1314:8,15;1317:13; 1319:1,23;1322:1,10, 25;1325:14;1326:14; 1331:10;1333:15,17; 1339:20;1341:10,14, 18,22,24;1342:15; 1343:2,4,9,11,15; 1355:11;1359:20,21; 1368:2;1369:23; 1371:6;1373:9,17,18; 1377:24;1378:14; 1383:20;1384:3,4; 1386:1;1396:4,7; 1402:25;1403:17,24; 1414:23;1419:2,4; 1422:13,24 <b>Outback (1)</b> 1311:16 <b>outside (6)</b> 1283:13;1317:11; 1351:19;1352:1; 1392:21;1407:3 <b>outspoken (1)</b> 1340:8 <b>over (21)</b> 1219:22;1221:17; 1223:15;1240:18; 1279:12;1281:19;	1284:20;1296:2; 1330:6;1334:17,23; 1341:21;1342:10; 1365:6;1366:20; 1376:14;1382:21; 1406:9,13;1407:2; 1418:13 <b>overdosing (1)</b> 1366:24 <b>overheard (2)</b> 1341:4,11 <b>overlook (2)</b> 1326:19,20 <b>overrule (1)</b> 1296:11 <b>Overruled (1)</b> 1319:6 <b>oversees (1)</b> 1284:7 <b>overslept (3)</b> 1337:6;1370:21; 1371:1 <b>own (6)</b> 1296:10;1326:6; 1356:7;1402:4; 1405:1;1412:1	1229:24;1247:16; 1290:13;1310:13; 1363:18;1389:19 <b>parking (2)</b> 1333:6,7 <b>part (28)</b> 1217:22;1222:4,5; 1223:5,6;1231:19; 1250:22;1261:21; 1322:12;1323:17,19, 22;1325:14;1327:19; 1352:10;1357:5; 1383:4;1390:10; 1399:3;1405:22,23; 1407:4,6;1410:4,6; 1421:8;1423:14; 1425:22 <b>partially (2)</b> 1225:1;1227:14 <b>participate (7)</b> 1254:6;1294:6; 1301:25;1314:5; 1365:13;1391:19; 1392:14 <b>participated (9)</b> 1254:13;1284:23, 24;1294:14;1314:8,9; 1366:17;1393:1,3 <b>participating (1)</b> 1254:9 <b>particular (9)</b> 1239:8;1240:23; 1268:12;1276:8; 1277:19;1278:4,25; 1339:21;1359:25 <b>parties (4)</b> 1226:14;1259:4; 1309:2;1409:24 <b>partner (52)</b> 1233:8;1244:2,10; 1255:8;1263:8,11,14, 16,20;1268:18; 1292:6;1303:17,19; 1304:6,8;1320:20,20; 1329:15;1338:18,21; 1348:6,8,11,18,25; 1357:7,21;1358:11, 14;1372:4,7;1375:1,3, 12;1377:11;1395:2,7, 14,15;1396:2;1399:5; 1402:11;1404:13,16, 21,24;1405:5,5; 1406:5,10,14,20 <b>partners (14)</b> 1234:17;1239:3; 1240:24;1241:2; 1242:13;1283:8; 1286:22;1342:19; 1357:12;1398:17; 1399:4;1400:13,13; 1406:2 <b>partner's (3)</b> 1327:12;1375:6;	1379:23 <b>parts (2)</b> 1323:24;1404:17 <b>Party (2)</b> 1209:9;1407:3 <b>passed (1)</b> 1413:19 <b>past (6)</b> 1257:17;1277:15, 16;1278:9,10; 1406:21 <b>pastry (4)</b> 1341:4;1397:22,23; 1405:14 <b>patience (1)</b> 1327:22 <b>patio (4)</b> 1317:11,12;1329:3; 1331:10 <b>Patrone (2)</b> 1298:2;1370:24 <b>Patrone's (1)</b> 1298:9 <b>pattern (1)</b> 1375:19 <b>Pause (7)</b> 1244:23;1311:5; 1323:21;1324:3; 1345:22;1361:7; 1382:15 <b>pausing (1)</b> 1409:23 <b>pens (1)</b> 1334:25 <b>people (22)</b> 1240:18;1252:25; 1261:18;1276:19; 1277:1,5,7,7,8; 1278:6,10;1280:11; 1294:2;1325:3; 1329:6;1331:17,18; 1336:2;1339:17; 1342:4;1360:3,11 <b>people's (1)</b> 1228:21 <b>per (1)</b> 1255:22 <b>percent (1)</b> 1222:23 <b>Perfect (10)</b> 1217:25;1229:3; 1230:2;1247:9; 1310:6;1311:3; 1327:7;1347:1; 1408:21;1409:15 <b>performing (1)</b> 1283:12 <b>period (10)</b> 1219:11;1220:11; 1221:17;1260:25; 1369:5,7,12;1370:5,8, 11 <b>periodically (1)</b>
---	---	--	--	--

1387:25 <b>permit (4)</b> 1218:17;1219:10; 1249:22;1421:1 <b>permitted (3)</b> 1219:4,4;1420:14 <b>person (20)</b> 1218:6,6;1224:11; 1225:14;1227:22; 1228:1,4,25;1235:7; 1257:24;1280:15; 1300:1;1342:13; 1366:24;1371:20; 1398:13;1402:17; 1412:11;1418:20; 1422:11 <b>personal (7)</b> 1235:17;1253:10; 1263:17;1315:10,15; 1349:3;1410:14 <b>personally (1)</b> 1252:16 <b>personnel (2)</b> 1327:12,13 <b>petition (10)</b> 1214:7,9;1249:22; 1251:24;1264:24; 1308:3;1383:15; 1386:20;1414:11; 1415:24 <b>petitioned (4)</b> 1249:12,17;1254:2; 1271:2 <b>petitions (1)</b> 1214:9 <b>phase (1)</b> 1301:24 <b>phone (13)</b> 1255:24;1337:16; 1339:1;1373:10; 1381:8,10;1384:12; 1395:2;1396:3; 1410:10,14,15; 1422:14 <b>phonetic (17)</b> 1232:5;1233:18; 1269:14;1285:11; 1294:4,20;1298:2; 1315:2;1331:19; 1339:25;1341:7; 1355:5;1360:15; 1364:18;1365:2; 1403:8;1412:11 <b>pick (1)</b> 1233:10 <b>picking (1)</b> 1283:10 <b>picture (14)</b> 1327:25;1328:2,5; 1336:5,7,8;1367:21, 22,23;1396:19,20; 1406:5,10,14 <b>piece (3)</b>	1218:16;1387:17; 1425:20 <b>pieces (2)</b> 1224:13;1387:1 <b>pin (33)</b> 1250:8;1292:16,18; 1293:8;1313:24,25; 1314:3,21;1315:4,8, 10,13,13,15,17,21; 1348:25;1349:1,2,3,9, 14,15,17,19,22,24; 1350:2,15,18; 1365:24;1366:1,3 <b>pins (18)</b> 1250:5,6,9,13; 1293:10,13,16; 1315:11;1348:23; 1349:1,5,11,13; 1365:19,21,22; 1392:2,6 <b>place (40)</b> 1232:15,20; 1233:20;1234:3,20; 1237:5;1238:23; 1239:18,21;1240:3, 23;1241:4,6,10,25; 1242:2,4;1243:6,9; 1244:7,15;1257:9,20; 1279:12;1296:14; 1308:4,7,12,14,20,25; 1309:2,4;1398:15,19; 1399:12;1400:10,20; 1411:1,2 <b>plan (9)</b> 1223:17;1237:10; 1238:2;1279:24; 1420:2,4;1422:24; 1423:1;1424:8 <b>planning (1)</b> 1426:1 <b>play (18)</b> 1256:19;1257:5,5, 6,11;1258:10,14; 1276:9,22;1277:6,10, 14;1278:5;1279:16, 20;1280:3;1411:3,8 <b>played (5)</b> 1411:12,22;1412:3, 13,21 <b>playing (1)</b> 1409:4 <b>plays (1)</b> 1276:25 <b>please (24)</b> 1223:25;1229:17; 1245:3;1247:2,6,9; 1254:20;1255:4; 1281:17;1285:8; 1286:17;1287:7; 1288:16;1290:6; 1295:1;1306:9; 1310:6;1362:8; 1363:11;1367:9;	1388:10;1389:13; 1407:18;1425:9 <b>pleasers (1)</b> 1240:18 <b>plenty (1)</b> 1217:18 <b>pm (25)</b> 1257:3;1258:12,13, 16,16;1301:1; 1306:22;1346:25; 1363:5;1374:18; 1386:3;1389:3; 1403:25;1409:14; 1411:12,12,22,22; 1412:3,3,13,13,21,21; 1426:7 <b>pm/Reconvene (6)</b> 1363:5;1374:18; 1386:3;1389:3; 1403:25;1409:14 <b>pm/Reconvened (2)</b> 1306:22;1346:25 <b>pocket (2)</b> 1226:5;1341:14 <b>point (66)</b> 1216:2;1217:21; 1225:10;1228:12; 1234:2,5,23;1238:10, 25;1239:11;1244:5; 1245:17,25;1253:13, 17;1263:13;1272:21; 1273:10;1278:19; 1280:4;1291:20; 1293:21,25;1294:10; 1296:8;1299:8,16; 1300:3;1323:4; 1340:19;1346:23; 1349:7,16,21;1350:1; 1351:13,22;1352:1, 12,15;1354:2;1365:7; 1368:2;1370:14; 1371:23;1372:12,17; 1373:7,18;1374:2; 1378:7;1379:13; 1382:25;1384:4,11; 1387:13,19;1388:8; 1391:16;1397:25; 1404:15,19;1410:11; 1412:8;1416:11; 1425:19 <b>pointed (4)</b> 1330:1;1343:2,3,8 <b>pointing (2)</b> 1224:25;1384:3 <b>points (4)</b> 1293:25;1294:5; 1322:9;1337:5 <b>policies (8)</b> 1269:7;1275:14,22; 1282:7;1302:22; 1348:18;1378:19,23 <b>policy (34)</b> 1255:3;1263:22;	1264:10;1265:4; 1270:22;1273:16,18, 22;1275:10;1286:21; 1287:4,22;1288:5,8, 10;1303:5;1304:9,12; 1305:14,25;1348:9, 20,22,25;1356:9; 1357:2;1359:14; 1371:16,16;1375:4, 11,13;1376:11; 1378:16 <b>portion (1)</b> 1394:12 <b>portions (1)</b> 1408:4 <b>position (13)</b> 1231:20;1242:2; 1246:1,5;1249:8,9; 1292:5;1313:3; 1364:15;1384:9,19; 1407:10;1419:4 <b>position's (1)</b> 1385:2 <b>positive (1)</b> 1399:18 <b>possession (1)</b> 1382:17 <b>possibility (4)</b> 1229:9;1239:13; 1388:14;1416:21 <b>possible (10)</b> 1215:19;1220:7,15; 1227:25;1228:11; 1280:19,21;1322:1; 1359:7;1371:8 <b>possibly (2)</b> 1227:7;1388:22 <b>posted (10)</b> 1234:8;1238:16; 1252:15;1253:7,23, 25;1355:23,25; 1356:2;1397:22 <b>posting (1)</b> 1356:3 <b>Post-It (1)</b> 1424:8 <b>potential (1)</b> 1276:1 <b>potentially (3)</b> 1297:6;1418:7; 1420:14 <b>practice (1)</b> 1255:20 <b>practices (1)</b> 1366:20 <b>precedent (1)</b> 1224:13 <b>prefer (3)</b> 1232:24;1320:9; 1371:21 <b>preference (1)</b> 1238:13 <b>prejudices (1)</b>	1220:25 <b>prejudicial (3)</b> 1418:10;1422:20; 1423:2 <b>pre-marked (1)</b> 1320:3 <b>prepare (2)</b> 1418:11;1423:8 <b>prepares (1)</b> 1283:22 <b>presence (1)</b> 1354:9 <b>present (23)</b> 1237:23;1238:4,7; 1258:5;1294:20; 1334:14;1345:11,16; 1350:20;1352:20; 1356:19;1357:17; 1360:3,6,10,23; 1373:1;1380:4,6; 1399:21;1400:14; 1419:25;1423:15 <b>presented (2)</b> 1233:1;1369:25 <b>presently (1)</b> 1239:25 <b>pressure (1)</b> 1423:17 <b>presumably (2)</b> 1272:14;1346:4 <b>pretend (1)</b> 1223:22 <b>pretty (10)</b> 1224:11;1257:15; 1315:12;1334:9; 1343:13;1353:24; 1354:18;1360:16; 1385:6;1387:12 <b>previous (3)</b> 1318:5;1337:1; 1339:15 <b>previously (9)</b> 1226:13;1279:9; 1294:3;1307:4; 1309:6;1330:13; 1331:24;1337:3; 1409:21 <b>Pride (5)</b> 1250:10;1314:1; 1349:14,15;1392:7 <b>print (2)</b> 1396:4;1404:17 <b>printed (3)</b> 1380:13;1396:6,17 <b>printer (3)</b> 1408:25;1409:1,1 <b>printing (1)</b> 1347:16 <b>printout (1)</b> 1234:8 <b>prior (35)</b> 1215:12;1230:9; 1233:24;1234:8,23;
---	--	---	--	--

1238:10,25;1257:11; 1263:20;1264:23; 1271:13,13,23; 1272:3;1295:24; 1300:7,10;1302:21; 1314:14;1317:22; 1318:9,12;1338:17; 1341:1;1345:7; 1350:1;1359:2; 1360:19,23;1375:16; 1379:13;1406:4,9,19; 1407:1 <b>privilege (4)</b> 1225:6,8;1414:24; 1415:7 <b>privileged (5)</b> 1225:1,10,12,14; 1245:23 <b>pro (1)</b> 1388:9 <b>probably (18)</b> 1220:3;1223:23; 1225:22;1233:3; 1291:12;1314:24; 1325:2,14;1344:18; 1345:10;1358:5; 1366:15;1385:6,18; 1388:5;1419:23; 1421:10;1425:23 <b>problem (6)</b> 1224:17;1229:8; 1310:1;1402:11; 1407:20;1417:24 <b>problematic (2)</b> 1418:17;1420:12 <b>procedure (1)</b> 1304:22 <b>proceeding (1)</b> 1408:13 <b>process (4)</b> 1214:24;1222:15; 1223:2;1369:1 <b>produce (3)</b> 1224:10;1382:18; 1387:16 <b>produced (7)</b> 1215:18;1295:16; 1308:14,15;1418:1,5; 1421:13 <b>product (3)</b> 1258:7;1283:10; 1316:25 <b>production (4)</b> 1216:11,17; 1224:24;1423:22 <b>products (1)</b> 1258:6 <b>promoted (1)</b> 1391:4 <b>promoting (1)</b> 1250:11 <b>promotion (2)</b> 1242:5,6	<b>pronoun (2)</b> 1315:12;1349:14 <b>pronouns (3)</b> 1311:13;1364:1; 1390:2 <b>proper (1)</b> 1304:21 <b>properly (1)</b> 1225:2 <b>proposed (1)</b> 1417:25 <b>prospectively (1)</b> 1222:22 <b>protected (1)</b> 1399:12 <b>protecting (2)</b> 1399:11;1400:19 <b>protections (1)</b> 1365:16 <b>provide (14)</b> 1217:11,13; 1223:13;1283:3; 1300:6;1356:22; 1381:2;1383:4,5; 1385:8;1405:19; 1424:19;1425:9,9 <b>provided (21)</b> 1215:7;1216:6; 1221:11,16;1243:11; 1263:14;1272:22; 1315:12;1322:10; 1354:16;1367:14; 1368:25;1381:1,6; 1384:15,22;1385:3; 1386:14;1406:6; 1414:22;1421:23 <b>providing (1)</b> 1406:4 <b>provision (1)</b> 1419:18 <b>proximity (2)</b> 1232:24;1328:4 <b>public (4)</b> 1254:16;1286:9,15; 1287:1 <b>pull (1)</b> 1334:10 <b>pulled (7)</b> 1315:5;1316:21; 1317:2;1334:6,7,17; 1351:10 <b>punch (5)</b> 1215:5,7,16,22; 1218:21 <b>punches (3)</b> 1421:13;1424:13, 17 <b>punchy (1)</b> 1384:11 <b>purple (6)</b> 1340:10;1345:6,11; 1360:17;1361:20,20 <b>purpose (1)</b>	1409:4 <b>purposes (13)</b> 1233:9;1251:16; 1254:17;1259:16; 1294:23;1296:18; 1298:14;1367:6; 1386:17;1393:9; 1409:9;1411:9; 1426:1 <b>pursuant (2)</b> 1209:12;1326:6 <b>push (2)</b> 1415:18;1419:4 <b>pushed (2)</b> 1220:18;1419:2 <b>put (16)</b> 1218:24;1245:25; 1253:18;1289:8,17; 1318:25;1336:20; 1341:14,15,22; 1362:22;1371:18,24; 1402:21;1415:18; 1425:16 <b>putting (2)</b> 1246:4;1373:10	<b>Rachel (1)</b> 1361:5 <b>rainbow (3)</b> 1250:10;1293:11; 1366:1 <b>raise (6)</b> 1229:18;1247:9; 1290:6;1310:6; 1363:11;1389:13 <b>raising (1)</b> 1226:4 <b>range (1)</b> 1215:9 <b>rate (1)</b> 1284:16 <b>rather (4)</b> 1246:4,10;1319:21; 1323:8 <b>RC (1)</b> 1308:3 <b>reach (1)</b> 1373:18 <b>reached (2)</b> 1304:17;1373:17 <b>read (4)</b> 1241:19;1251:18; 1322:11;1416:25 <b>reading (1)</b> 1321:9 <b>ready (6)</b> 1244:21;1262:24; 1301:3;1347:22,23; 1404:6 <b>realize (1)</b> 1224:24 <b>realizing (1)</b> 1245:23 <b>really (20)</b> 1253:13;1323:20; 1326:18;1328:14; 1329:2;1334:19; 1340:25;1342:9; 1344:25;1345:17; 1354:4;1359:17; 1388:24;1395:17; 1399:8,12;1401:14; 1402:20;1404:22; 1405:7 <b>real-time (1)</b> 1216:22 <b>reason (11)</b> 1231:2;1242:3,6, 12;1255:17;1268:17; 1295:21;1406:23; 1420:15,17,18 <b>reasons (6)</b> 1254:15;1322:12; 1325:18;1334:19; 1341:23;1417:25 <b>rebuttal (1)</b> 1419:8 <b>recall (52)</b> 1219:16;1220:22;	1233:1,15,22;1238:6; 1241:16;1243:16,21; 1252:12,22;1254:8; 1255:16;1256:7; 1260:15;1276:5,13; 1281:24;1282:22; 1283:7;1295:23; 1297:19;1298:1; 1299:10,11;1318:1; 1319:8;1324:19,24; 1325:2,2;1332:2; 1338:15;1339:22; 1350:24;1368:15,17, 18,24;1369:16; 1370:14;1378:6; 1382:4;1387:23; 1394:25;1396:6; 1409:3;1410:6; 1416:6;1417:4,4; 1419:5 <b>recalled (2)</b> 1388:14;1409:21 <b>receipt (6)</b> 1264:14;1271:6; 1348:12,17;1350:23; 1356:20 <b>receive (17)</b> 1232:9;1263:7,11, 17;1265:4;1269:13, 23;1280:23;1284:16; 1286:9;1302:21; 1303:4,17;1316:5; 1369:2,9;1370:6 <b>received (36)</b> 1219:17,17;1255:1; 1259:6;1260:16,16; 1265:9,13,20; 1266:18;1267:19; 1272:6;1273:5; 1280:17,21;1281:14; 1282:3,3;1286:14; 1303:7;1304:6; 1316:11;1326:11; 1331:24,25;1332:14; 1367:18;1368:14; 1369:21;1370:23; 1385:16;1401:1,6,9; 1413:20;1420:21 <b>receiving (16)</b> 1260:22;1266:23; 1269:16;1273:14; 1275:8;1285:25; 1318:12;1330:18; 1338:25;1345:2; 1348:11;1368:15,17; 1369:16;1375:12; 1376:23 <b>recess (13)</b> 1236:22;1245:18; 1262:23;1289:25; 1301:1;1306:22; 1346:25;1363:5; 1374:18;1386:3;
<b>Q</b>				
<b>QR (2)</b> 1238:16,18 <b>quarter (3)</b> 1332:16,16;1363:3 <b>queasy (1)</b> 1299:19 <b>quick (1)</b> 1334:19 <b>quickly (1)</b> 1410:9 <b>quiet (1)</b> 1399:8 <b>quote/unquote (1)</b> 1261:19				
<b>R</b>				
<b>R-27 (2)</b> 1264:18,20 <b>R-28 (1)</b> 1267:7 <b>R-29 (2)</b> 1268:2,4 <b>R-30 (2)</b> 1273:25;1274:5 <b>R-31 (2)</b> 1275:3,5 <b>R-32 (2)</b> 1327:15,21 <b>R-33 (1)</b> 1376:18 <b>R-34 (2)</b> 1377:16;1379:6 <b>R-35 (2)</b> 1380:11,16				

1389:3;1403:25; 1409:14 <b>recessed (1)</b> 1426:8 <b>recognize (25)</b> 1251:10,19; 1254:23;1259:22; 1264:8;1266:1; 1267:12,16;1270:3,5; 1274:11;1295:1; 1296:23;1298:17; 1319:14;1320:16; 1335:4,20;1367:11; 1376:5;1377:6; 1379:17;1393:14; 1411:17;1412:6 <b>recollection (1)</b> 1410:24 <b>reconfirm (1)</b> 1384:19 <b>reconsider (1)</b> 1220:22 <b>reconsideration (1)</b> 1226:10 <b>reconvene (8)</b> 1236:21;1300:22; 1346:19;1374:14; 1403:22;1425:15,17; 1426:8 <b>record (71)</b> 1216:7;1217:4,5; 1221:18,22,23; 1223:7;1225:4,16; 1229:14;1245:16,19, 25;1246:5;1247:6; 1256:11;1282:16; 1289:20,21;1290:2; 1302:5;1306:20,23; 1310:2;1322:9,11; 1326:9,12,20; 1327:11;1339:9; 1346:22;1352:10; 1362:19;1363:2,7; 1380:10,19;1381:8; 1382:10,13;1383:12; 1384:8,9;1385:16; 1386:2,5;1388:2,4,9; 1389:2,10;1394:4,9; 1404:1,6;1408:1,3,19; 1409:8;1410:13; 1413:5;1420:23,24, 25;1421:3,11,21; 1423:3;1425:16; 1426:4 <b>recorded (3)</b> 1373:11;1384:12; 1410:5 <b>recording (25)</b> 1373:7;1380:23,25; 1382:18;1383:2,5,22; 1384:15,25;1385:1; 1386:6,14;1387:16; 1388:15;1409:5,9;	1410:9,11,21,25; 1411:3;1412:23; 1413:1,13;1414:10 <b>recordings (1)</b> 1382:11 <b>records (9)</b> 1215:5,8,10,11; 1258:21;1262:7; 1336:19;1386:15; 1421:7 <b>record's (1)</b> 1400:16 <b>recross (1)</b> 1288:13 <b>red (1)</b> 1368:25 <b>redact (1)</b> 1225:2 <b>redacted (1)</b> 1414:21 <b>redirect (9)</b> 1244:19;1277:25; 1285:5,6;1306:6; 1361:9,11;1388:11; 1407:13 <b>reference (2)</b> 1384:17;1395:1 <b>referenced (6)</b> 1265:9,19,20; 1267:22;1275:24; 1305:7 <b>references (2)</b> 1266:17;1375:6 <b>referencing (2)</b> 1266:10;1383:22 <b>referred (1)</b> 1248:25 <b>referring (4)</b> 1256:12;1351:23; 1353:1;1408:19 <b>reflected (2)</b> 1265:12;1268:15 <b>reflecting (1)</b> 1350:17 <b>reflective (1)</b> 1275:20 <b>reflects (3)</b> 1272:2;1274:16; 1377:21 <b>refresh (2)</b> 1335:12;1414:13 <b>refuse (2)</b> 1401:16;1402:8 <b>refused (6)</b> 1297:10;1330:10; 1379:23;1380:6,13; 1394:5 <b>refusing (1)</b> 1366:25 <b>Regal (18)</b> 1230:19;1231:23, 25;1232:8;1234:24; 1235:22;1238:11;	1239:21;1241:9,13, 21;1242:8,13,18,22; 1243:3,4;1244:6 <b>regard (1)</b> 1239:10 <b>regarding (6)</b> 1232:9,23;1237:4; 1269:17,24;1414:10 <b>regards (1)</b> 1365:16 <b>Region (2)</b> 1209:14;1228:24 <b>regroup (1)</b> 1419:2 <b>regular (1)</b> 1356:9 <b>regularly (2)</b> 1357:23;1358:3 <b>reiterate (1)</b> 1222:15 <b>reiterated (1)</b> 1370:11 <b>reject (2)</b> 1253:17;1289:16 <b>rejected (10)</b> 1253:18,21; 1289:17;1335:14; 1362:23;1386:8; 1408:4,18;1423:24,25 <b>related (4)</b> 1266:19;1307:3; 1308:4,22 <b>relates (2)</b> 1214:22;1308:18 <b>relating (1)</b> 1265:21 <b>relation (5)</b> 1329:3;1330:17,24; 1332:4;1344:17 <b>RELATIONS (13)</b> 1209:2,14;1225:13; 1241:17;1242:16; 1243:12;1372:4,7; 1381:2,14,20; 1382:11,17 <b>release (1)</b> 1294:4 <b>Relevance (5)</b> 1259:8;1299:13; 1337:10;1371:11; 1408:15 <b>relevant (4)</b> 1289:4;1307:4; 1308:8;1337:12 <b>relocation (1)</b> 1237:7 <b>remaining (1)</b> 1217:22 <b>remember (51)</b> 1231:1;1234:19; 1237:12;1241:21; 1243:16;1244:3; 1253:3;1257:2;	1263:9;1265:14; 1268:16,16;1269:14, 16,25;1276:18; 1279:5,7,13;1280:18, 22;1281:5,9,16,25; 1302:7;1305:19; 1314:7,8,23;1317:17; 1322:20,21;1324:5, 23;1332:24;1337:7; 1338:25;1340:11; 1354:4,19;1358:13, 15;1360:25;1361:3, 24;1369:20;1390:25; 1394:22;1398:12; 1410:18 <b>remembering (2)</b> 1239:25;1424:11 <b>remind (3)</b> 1285:15;1367:1; 1409:16 <b>reminding (1)</b> 1371:16 <b>renewal (1)</b> 1335:18 <b>renewing (1)</b> 1335:8 <b>renovation (14)</b> 1232:3,11;1237:7, 10,18;1238:2,3,11; 1239:4,9,21;1241:8; 1242:22;1243:3 <b>renovations (9)</b> 1231:13,24;1232:6, 8,17,20;1235:2,8,22 <b>rep (1)</b> 1396:18 <b>repeat (8)</b> 1265:16;1271:16; 1279:21;1281:17; 1287:24;1350:12; 1406:8;1420:5 <b>rephrase (3)</b> 1251:5;1269:22; 1343:25 <b>replaced (1)</b> 1365:1 <b>reply (5)</b> 1246:6,14;1344:25; 1386:21;1414:13 <b>report (2)</b> 1261:18;1284:1 <b>reporter (2)</b> 1303:22,22 <b>reporting (1)</b> 1226:13 <b>representations (1)</b> 1418:1 <b>representative (6)</b> 1224:7;1307:11,22, 24;1308:2;1309:4 <b>representatives (1)</b> 1366:12 <b>representing (1)</b>	1327:10 <b>reprint (1)</b> 1321:25 <b>reproduce (1)</b> 1225:3 <b>request (13)</b> 1216:12,19;1243:4; 1255:23;1278:14; 1382:18,21,22; 1383:14;1385:23; 1387:15;1406:6; 1424:18 <b>requested (6)</b> 1215:11;1277:13; 1386:7,8;1405:18; 1424:22 <b>requests (1)</b> 1414:12 <b>require (1)</b> 1424:19 <b>required (4)</b> 1215:18;1304:14, 24;1387:15 <b>reserving (1)</b> 1421:3 <b>resigned (1)</b> 1407:9 <b>Resolved (2)</b> 1216:20;1414:9 <b>resolving (1)</b> 1409:7 <b>respect (13)</b> 1215:2;1216:17; 1224:24;1266:6; 1308:6;1352:18; 1357:4;1359:20; 1360:17;1375:20; 1376:11;1396:10; 1414:9 <b>respected (1)</b> 1402:13 <b>respectfully (1)</b> 1421:23 <b>respective (1)</b> 1408:7 <b>respectively (1)</b> 1399:10 <b>respond (7)</b> 1246:2;1318:4; 1351:22;1374:5; 1382:19,20;1421:21 <b>responded (7)</b> 1216:18;1373:11, 16,24;1374:8; 1382:12;1383:16 <b>Respondent (19)</b> 1209:6;1215:7; 1216:1;1224:5; 1225:11;1325:23; 1327:10;1347:4,17; 1362:18;1386:7,9; 1387:15;1414:13,22; 1421:6,20;1422:10;
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1424:19 <b>respondents (2)</b> 1387:25;1419:20 <b>Respondent's (20)</b> 1264:7,21;1265:25; 1267:8,11;1268:5; 1270:2;1274:7,10; 1275:6;1307:5; 1327:16;1376:4,21; 1377:5,19;1380:17; 1382:21;1413:12; 1425:21 <b>response (16)</b> 1317:6;1319:7; 1328:15,17,25; 1329:24;1330:3; 1334:21;1342:7,22; 1366:22,23;1370:10; 1372:4,10;1399:7 <b>responsibility (3)</b> 1278:7;1280:9,12 <b>responsible (2)</b> 1276:9;1279:15 <b>responsive (4)</b> 1215:1;1231:15; 1234:12;1249:14 <b>rest (9)</b> 1219:4,10;1220:1, 3;1222:13;1264:3; 1386:1;1422:21,23 <b>resting (4)</b> 1219:18;1415:24; 1416:1,8 <b>restocking (1)</b> 1340:18 <b>restroom (1)</b> 1262:14 <b>result (5)</b> 1223:16;1245:23; 1270:22;1275:10; 1376:12 <b>retrieve (1)</b> 1384:8 <b>retrieved (1)</b> 1327:11 <b>return (13)</b> 1220:4;1227:7; 1234:24;1235:2,22; 1241:12,15;1242:22; 1243:4;1333:25; 1374:9;1415:6; 1416:12 <b>returned (1)</b> 1373:25 <b>returning (1)</b> 1235:25 <b>reversed (1)</b> 1387:15 <b>review (12)</b> 1219:11;1220:2,6; 1222:13;1224:14; 1416:1,7,22;1418:3,4; 1421:22;1423:23	<b>reviewed (8)</b> 1223:4;1225:9; 1286:22;1287:15,23; 1288:6,10;1420:20 <b>reviewing (1)</b> 1416:11 <b>revised (1)</b> 1356:23 <b>revoke (6)</b> 1214:7,9,9; 1386:20;1414:11; 1415:24 <b>right (207)</b> 1216:4;1217:9,12; 1221:12;1222:5; 1224:9,17;1226:3,17; 1229:5,6,10,12,12,17, 18,23;1230:3;1236:3, 20;1237:8;1238:6; 1240:19;1241:23; 1242:15;1243:23; 1244:5,10;1245:8,16; 1246:22,25;1247:2,2, 5,10,15,18;1250:23; 1252:23;1253:20; 1255:12;1257:22; 1262:19,21;1264:20; 1266:5;1267:7,22; 1268:4;1272:8,16; 1273:6,16;1274:5,23; 1275:5,18;1278:15; 24;1280:9;1283:18; 1285:5;1288:13,22, 22;1289:1,7;1290:6,6, 12,17,22;1291:1; 1295:17;1297:13; 1300:17,22;1301:2; 1306:6;1309:5,13,22, 23;1310:6,12,18; 1312:10;1320:3,14; 1321:18,24;1322:5; 1323:6,6,15;1324:1,4, 10,14,15,15;1325:1, 21;1326:8,19;1327:6, 9,24;1328:6,21; 1329:5,5;1336:17,21; 1337:17;1342:17; 1346:13,17;1347:1, 21,25;1348:8; 1352:12;1353:7; 1360:7;1361:9; 1362:7,9,9,18,22,23; 1363:6,11,12,17,20; 1368:6;1371:20; 1372:25;1374:11,13; 1375:25;1376:20; 1377:8;1379:9,19; 1380:14,16;1383:10, 24;1384:3,11;1386:1, 4,25;1387:7,20,22,24; 1388:10,13,19; 1389:1,1,6,13,13,19, 23;1394:2,16;	1395:24;1396:1; 1397:22,23,25; 1398:8;1400:12; 1402:6;1403:14,16, 22;1404:5,6;1405:13; 1407:22,24,25; 1409:3,6,15,24; 1413:8;1414:5,8; 1415:1,2,22;1416:10, 24;1417:6;1422:22; 1423:6;1424:3,25 <b>rightly (1)</b> 1222:19 <b>RINGLER (446)</b> 1209:13;1214:3,12, 14,19;1215:14,19,25; 1216:4,15,20,24; 1217:3,16,25;1218:4, 9,12,14,22,25;1219:2, 5,7,9,14,19;1220:3,7, 10,14,16,24;1221:1,7, 10,12,15,22;1222:9, 11,22;1223:20,22; 1224:21;1225:9,15; 1226:2,12,16,21; 1227:4,8,12,18,21,24; 1228:6,9,11,14,18,22; 1229:2,7,12,17,23; 1230:2;1231:16; 1234:13;1235:19; 1236:17,20,23; 1240:16;1243:24; 1244:19,21,25; 1245:3,6,8,11,14,16, 19;1246:4,10,13,18, 20,22,25;1247:2,9,15, 18;1249:3,5,15,21; 1250:19;1251:3,12; 1252:7;1253:12; 1255:10,12;1256:13, 17;1259:9;1260:4,6; 1262:9,12,16,18,21, 24;1263:1;1264:18, 20;1267:5,7;1268:2, 4;1273:12,24;1274:3, 5;1275:3,5;1277:24; 1278:20;1282:18; 1285:5;1288:13,15, 19,22;1289:1,7,10,13, 15,20,23;1290:1,6,12, 15,17,20,22;1291:1; 1292:20,22,25; 1293:2,4;1295:15,17; 1296:11;1297:13; 1298:7,9,12;1299:2,4, 14;1300:13,17,20,22; 1301:2;1303:25; 1304:3;1306:6,8,12, 14,19,23;1307:8,13, 16,18,20;1308:10,17, 21,24;1309:5,9,11,13, 19,22;1310:1,6,12,16, 18,20,23,25;1311:3,6;	1312:1,5,8,10;1318:1, 10,15;1319:6,8,19,22, 24;1320:8,11,14; 1321:8,11,14,18,20, 24;1322:3,5,14,17,21, 23;1323:6,8,12; 1324:1,4,8,10,15,17, 22,24;1325:1,5,7,11, 17,22;1326:1,8,14,17, 22,25;1327:3,7,9,13, 15,18;1330:20; 1331:2,4,10;1335:11, 14,17;1336:15,17,20, 23;1337:11,15; 1339:6,13;1343:23; 1344:2,6;1345:21; 1346:3,11,13,17,19, 22;1347:1,11,14,16, 18,21,23,25;1350:8, 10;1354:22;1361:9; 1362:2,4,6,12,18,22; 1363:2,6,11,17,20; 1368:1,4,6,8;1371:12; 1374:11,13,17,19; 1376:18,20;1377:16, 18;1379:1,5,9; 1380:11,16;1382:14, 19,23,25;1383:7,10, 24;1384:1,7;1385:9, 13,19,21,25;1386:4, 25;1387:7,12,22,24; 1388:13,17,19,23; 1389:1,4,6,9,13,19, 23;1394:2,6,8;1397:6, 8,11;1403:12,14,16, 19,22;1404:1,5; 1407:13,15,17,22,24; 1408:5,11,14,21,23; 1409:1,6,12,15,25; 1411:11;1413:6,8,24; 1414:2,5,8,16,18; 1415:1,4,8,11,13,16, 18,20,22;1416:1,4,10, 15,24;1417:6,9,14,17, 19,21;1419:3,7,9,16; 1420:2,4,10,17; 1421:17,19,25; 1422:5,7,19,21; 1423:6,9,11;1424:3,5, 7,16,21;1425:3,4,7; 1426:4 <b>roads (1)</b> 1219:19 <b>ROBERT (17)</b> 1209:13;1269:14, 17,19;1272:11,13,18, 19,21;1364:18,19,22; 1365:1;1368:18,19, 21,23 <b>Rochester (1)</b> 1418:22 <b>role (4)</b> 1230:25,25;	1340:15,17 <b>Rome (1)</b> 1219:20 <b>room (3)</b> 1369:23;1418:25; 1425:18 <b>roughly (4)</b> 1253:15;1261:10, 11;1262:12 <b>rule (3)</b> 1223:2;1414:19; 1415:23 <b>ruling (3)</b> 1222:17;1225:17; 1415:7 <b>rulings (2)</b> 1215:2;1226:9 <b>running (1)</b> 1398:22 <b>rush (1)</b> 1398:6 <b>RX- (2)</b> 1267:25;1377:14 <b>RX-27 (6)</b> 1264:6,8,16; 1287:4,25;1288:3 <b>RX-28 (5)</b> 1265:24;1266:1,3, 24;1267:4 <b>RX-29 (5)</b> 1267:10,12,16,18; 1285:8 <b>RX-30 (5)</b> 1270:1,3,5; 1285:20,22 <b>RX-31 (5)</b> 1274:9;1275:2; 1286:17;1288:2,4 <b>RX-32 (5)</b> 1353:4,4,18,19; 1354:7 <b>RX-33 (3)</b> 1376:3,5,17 <b>RX-34 (3)</b> 1377:4,6;1379:3 <b>RX-35 (3)</b> 1379:16,17; 1380:10
<b>S</b>				
<b>Sabriana (7)</b> 1329:13,14; 1331:19;1333:6; 1352:16,18;1355:5 <b>sage (1)</b> 1333:18 <b>salaried (1)</b> 1284:17 <b>salary (3)</b> 1284:11,12,16 <b>same (29)</b> 1216:19;1241:19;				



1261:9;1284:5; 1323:9,17,19; 1326:20;1327:19; 1329:19,20;1330:6; 1331:2;1356:9; 1388:8;1396:25; 1398:24;1399:4; 1400:1,1,5,19; 1401:10,10,11; 1408:6;1416:17; 1425:18,18 <b>Samsung (1)</b> 1410:16 <b>sat (3)</b> 1334:16;1398:8; 1402:1 <b>satisfaction (1)</b> 1422:13 <b>satisfied (1)</b> 1243:8 <b>saw (6)</b> 1215:10;1253:23; 1263:20;1352:15; 1373:10;1398:23 <b>saying (21)</b> 1220:20;1221:2,16; 1225:10,21;1234:8; 1242:18;1303:23,23; 1304:1;1314:18; 1330:6;1342:16,21; 1361:17,17;1373:12; 1387:15;1420:23; 1421:4;1422:22 <b>scan (1)</b> 1238:17 <b>scanned (1)</b> 1238:18 <b>scenario (2)</b> 1221:24;1421:5 <b>scented (1)</b> 1371:17 <b>schedule (6)</b> 1227:14;1283:22; 1284:2,18;1395:6; 1420:7 <b>scheduled (15)</b> 1256:18,24;1261:9, 14,16;1279:13; 1283:3,15,16,16; 1284:19,20,21; 1370:17;1395:7 <b>schedules (3)</b> 1218:6;1227:25; 1228:21 <b>scheduling (2)</b> 1227:10;1423:12 <b>scheme (1)</b> 1422:25 <b>school (1)</b> 1398:6 <b>Schultz (1)</b> 1314:18 <b>Scott (2)</b>	1334:8,14 <b>second (38)</b> 1226:24;1233:11; 1252:3;1255:4; 1259:2;1264:13; 1267:13;1270:4; 1272:15;1287:7,9,10; 1288:14;1300:16; 1308:17;1314:24; 1323:2,9,15;1325:20; 1326:22;1328:7; 1331:21;1336:16,25; 1338:14;1346:16; 1353:20;1354:8,13, 17;1371:24;1372:12; 1377:11;1390:13; 1393:4;1411:25; 1417:9 <b>seconds (4)</b> 1244:20;1411:14, 15,23 <b>section (8)</b> 1233:13;1268:21; 1295:12;1315:5; 1316:23;1348:22; 1385:7;1387:16 <b>seeing (1)</b> 1232:11 <b>seeking (1)</b> 1245:22 <b>seem (1)</b> 1325:19 <b>seems (1)</b> 1387:17 <b>select (1)</b> 1234:3 <b>selected (1)</b> 1242:3 <b>selections (1)</b> 1233:22 <b>selfish (1)</b> 1342:13 <b>SELLERS (1)</b> 1362:3 <b>semantics (1)</b> 1416:10 <b>send (9)</b> 1235:8;1252:16,23; 1253:1;1314:15; 1321:19;1381:14,20; 1396:15 <b>sending (3)</b> 1356:7,7;1361:18 <b>sense (11)</b> 1216:15;1217:4,7; 1219:15;1222:12; 1235:5,11,18; 1246:11;1319:20; 1330:17 <b>sent (30)</b> 1238:11,15; 1239:17;1240:3,5,18; 1251:8,22;1252:10,	11,12,13,20,21,22,24; 1253:2,4,8;1302:4; 1307:4;1309:2; 1346:6;1381:23; 1387:8;1396:12,22; 1410:17,18,21 <b>sentence (1)</b> 1286:21 <b>separate (3)</b> 1355:15,23; 1386:18 <b>separated (3)</b> 1282:25;1375:23; 1379:11 <b>separation (29)</b> 1259:25;1260:23; 1261:1,7;1265:8,19; 1266:17;1267:23; 1282:4;1296:7; 1298:18;1312:2; 1335:2,23,25;1336:9; 1345:3,25;1357:5; 1367:14;1375:16; 1378:20;1379:19; 1380:2,19;1382:5; 1412:24;1413:12,21 <b>September (28)</b> 1230:17;1270:8; 1271:5,19,20; 1273:15;1285:21; 1291:8;1297:2,17; 1298:8;1338:15,17, 25;1339:3;1340:9,14; 1344:11;1345:3,4,7; 1357:4;1361:22; 1366:23;1367:1,3,4; 1371:13 <b>serious (2)</b> 1412:17;1417:24 <b>served (2)</b> 1214:16;1297:2 <b>serves (1)</b> 1270:16 <b>services (1)</b> 1226:13 <b>serving (1)</b> 1244:17 <b>sessions (1)</b> 1296:14 <b>set (7)</b> 1247:5;1258:8,9; 1284:18;1410:10; 1421:14;1424:8 <b>settled (2)</b> 1229:13;1309:23 <b>setup (5)</b> 1276:4;1279:2,20, 24;1280:9 <b>seven (3)</b> 1239:22;1346:16; 1392:7 <b>several (2)</b> 1254:12;1272:18	<b>shaker (1)</b> 1365:25 <b>shared (1)</b> 1403:7 <b>sheet (4)</b> 1334:22;1396:1,19, 22 <b>Sheridan (16)</b> 1291:10,11,17; 1293:16;1294:8,19; 1301:10,12,17,19,25; 1302:6,23;1303:5,8; 1307:11 <b>Sherwood (1)</b> 1355:5 <b>shift (73)</b> 1230:25;1231:3,9; 1236:4,5;1242:1; 1249:9;1256:19,24, 25;1257:1;1258:12, 14;1263:25;1264:2; 1277:3,11;1279:3,6, 10,14,18,22,25; 1280:1,8;1281:4; 1283:20;1284:4; 1298:11;1299:21; 1304:17;1305:17; 1313:11;1314:4; 1316:14,14;1318:5; 1337:21;1338:23,23; 1339:1,16;1340:25; 1341:7;1343:17; 1344:17,19;1345:1, 13,15,17;1351:2,2,5; 1357:6,11,13,15,20; 1358:9,10,11,23; 1361:2,4,13,19; 1369:22;1370:18,20; 1391:4;1401:20 <b>shifts (4)</b> 1257:17;1313:24; 1337:19;1395:10 <b>shirt (4)</b> 1333:15,17; 1355:10;1356:25 <b>shoot (2)</b> 1415:14,17 <b>short (4)</b> 1227:3;1246:6; 1357:14;1374:14 <b>shortly (5)</b> 1269:12;1314:9; 1341:3;1425:25; 1426:1 <b>show (38)</b> 1250:2;1292:14; 1313:20;1324:10; 1338:15,19,22; 1339:4,19,20,22; 1340:2;1357:5,15,21; 1358:12,20,22,25; 1359:3,8,11;1370:1; 1372:13;1375:7;	1376:12;1378:1,10, 15;1379:13;1384:4; 1391:23;1392:16,20, 23;1397:4,6;1413:11 <b>showed (10)</b> 1251:10;1275:16; 1279:14;1293:6; 1319:14;1335:4; 1339:17;1357:8; 1378:8;1393:4 <b>showing (13)</b> 1226:24,25;1227:1; 1254:17;1259:16; 1283:19;1296:18; 1298:14;1324:6; 1339:10;1367:6,20; 1393:9 <b>shown (2)</b> 1281:18;1326:2 <b>shows (7)</b> 1243:20;1375:17, 20;1376:1,25; 1377:22;1408:8 <b>shuffle (1)</b> 1242:13 <b>sick (4)</b> 1299:19;1373:14; 1377:25;1405:2 <b>side (4)</b> 1223:15;1250:23; 1267:1;1397:23 <b>sift (2)</b> 1215:6;1216:25 <b>sign (24)</b> 1224:10;1260:1; 1295:11;1297:9; 1298:22;1318:25; 1321:1;1328:18; 1330:10;1335:24; 1336:3,3;1348:12; 1367:16;1379:23; 1380:7,13;1386:10, 11;1392:12,22; 1393:18;1394:5; 1402:23 <b>signatories (1)</b> 1252:3 <b>signature (11)</b> 1255:5,7;1264:13; 1267:2;1297:6; 1323:17;1325:8; 1327:20;1377:12,12; 1379:23 <b>signatures (8)</b> 1320:23,24; 1321:22;1322:22; 1323:21;1336:2; 1353:23;1354:3 <b>signed (6)</b> 1250:4;1314:19; 1325:3,5;1353:24; 1370:3 <b>signing (1)</b>
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1348:17 <b>signs (2)</b> 1254:15;1258:6 <b>similarly (1)</b> 1216:19 <b>simply (1)</b> 1217:5 <b>single (7)</b> 1246:15,17; 1261:12;1280:15; 1281:21;1284:22; 1418:20 <b>Siren's (13)</b> 1255:2;1256:21; 1258:3,4,17,20; 1276:4,8;1279:2,19, 24;1280:2,9 <b>sit (2)</b> 1223:17;1252:19 <b>sit-down (1)</b> 1350:6 <b>sitting (3)</b> 1283:18;1329:3; 1384:13 <b>situation (7)</b> 1220:16;1268:8; 1270:10;1277:17,19; 1278:4;1400:2 <b>six (12)</b> 1214:4;1223:11; 1279:12;1302:13; 1369:9,11;1370:7,12; 1395:8;1411:14,15; 1413:19 <b>six-month (4)</b> 1369:4,7;1370:5,11 <b>six-page (1)</b> 1346:15 <b>slightly (3)</b> 1291:15;1320:5; 1323:23 <b>slip (1)</b> 1260:18 <b>slip-and- (1)</b> 1266:19 <b>slip-and-fall (5)</b> 1265:10,14,21; 1266:6,9 <b>SNELLING (78)</b> 1309:20;1310:14, 17,19,22,24;1311:1,8; 1312:4,7,11;1318:6; 11,16,17;1319:10,16; 1320:1,4,10,12,15; 1321:6,10,13,16,19, 22;1322:2,4,24; 1323:11,14,19; 1324:2;1325:16; 1326:21,24;1327:5,8, 23;1330:22,23; 1331:3,6,12,21,23; 1335:6,13,16,18,19; 1336:13,24;1337:12,	18;1339:8;1343:25; 1344:3,7;1345:19,23; 1346:7,9,15,18; 1347:3,6,8,15,20; 1361:10,12,25; 1362:10,13,15 <b>so-and-so (1)</b> 1422:10 <b>social (2)</b> 1252:15;1253:23 <b>somebody (3)</b> 1252:25;1260:18; 1401:23 <b>somebody's (1)</b> 1222:24 <b>Somehow (1)</b> 1418:3 <b>someone (5)</b> 1281:7,25;1318:25; 1356:7;1357:15 <b>sometime (3)</b> 1294:8;1299:22; 1388:24 <b>sometimes (8)</b> 1237:16,16;1249:1; 1262:1;1279:11,12; 1283:10;1357:22 <b>somewhere (4)</b> 1215:9;1218:3; 1227:16;1423:18 <b>soon (4)</b> 1220:15;1256:1; 1356:16;1400:21 <b>sorry (47)</b> 1248:11,14,14,14; 1254:8;1257:22; 1258:16;1261:2,25; 1265:19;1272:1; 1276:15,16;1277:6; 1281:15,16,16; 1287:11,24;1288:24; 1290:18;1294:12,24; 1297:23,23;1300:19; 1301:21;1302:10; 1303:21;1308:17; 1320:4;1322:5; 1326:24;1332:12; 1350:9;1354:18; 1371:1;1383:15; 1384:6;1390:13,18; 1397:4,10;1406:8,12; 1411:6,7 <b>sought (1)</b> 1423:24 <b>sounds (5)</b> 1217:9;1219:21,23; 1221:4;1374:16 <b>south (1)</b> 1420:11 <b>Southridge (1)</b> 1248:4 <b>speak (22)</b> 1234:23;1240:3;	1281:8,12,13; 1292:20;1297:22; 1316:15;1333:9; 1337:20,22;1338:5,8; 1343:15;1344:12,20; 1345:4;1351:3; 1355:7;1372:24; 1402:23;1419:10 <b>SPEAKER (4)</b> 1303:24;1378:25; 1403:13;1411:14 <b>speaking (10)</b> 1280:18,22;1281:3, 3,9,24,25,25;1333:11; 1338:7 <b>special (2)</b> 1233:13;1387:13 <b>specific (4)</b> 1235:6;1243:15; 1277:17;1396:6 <b>specifically (12)</b> 1232:19;1235:12; 1240:12;1241:14; 1267:18;1296:16; 1315:7;1328:9; 1332:13;1348:25; 1349:19;1361:23 <b>specificity (1)</b> 1243:15 <b>specifics (1)</b> 1238:5 <b>sped (1)</b> 1227:16 <b>spell (6)</b> 1229:13;1247:6; 1290:2;1310:2; 1363:7;1389:9 <b>spelled (2)</b> 1247:8;1290:5 <b>spoke (11)</b> 1280:16;1281:7,22; 1282:6;1316:18; 1331:17,18;1337:14; 1338:4;1339:4; 1355:4 <b>spoken (1)</b> 1280:19 <b>spot (4)</b> 1326:20;1401:10; 1405:13,16 <b>spreadsheet (4)</b> 1215:24;1218:25; 1239:1;1424:23 <b>spring (1)</b> 1258:7 <b>Squared (4)</b> 1362:4;1413:25; 1414:1;1425:12 <b>stack (1)</b> 1408:2 <b>staff (3)</b> 1235:2;1237:10; 1238:3	<b>staffed (1)</b> 1357:14 <b>stamp (1)</b> 1324:13 <b>stance (1)</b> 1223:1 <b>stand (7)</b> 1243:1;1309:21; 1383:1;1392:20; 1409:16;1417:22; 1422:9 <b>standpoint (1)</b> 1420:18 <b>Starbuck-issued (1)</b> 1349:1 <b>STARBUCKS (105)</b> 1209:5;1214:4; 1218:7;1224:12; 1230:8,13,15,16,23; 1231:20;1239:3; 1240:4,23;1243:9; 1244:6;1247:22,24, 25;1248:3,6,20; 1249:8;1250:8,11; 1252:17,20;1263:6; 1271:24;1272:4; 1273:1,6,18,22; 1281:19;1283:13; 1291:4,7;1292:5,11; 1293:8;1301:9; 1302:22;1303:16; 1304:11,22;1308:15; 1311:17,19;1312:12, 15;1313:4,21; 1315:12;1316:2; 1322:9;1326:12; 1332:20;1336:19; 1342:4,5;1344:15; 1348:5;1349:14,15; 1356:2,9,10,19; 1357:1;1358:7; 1364:3,5,10,13,15; 1365:24,25;1371:16; 1374:22,25;1375:22; 1376:1,15;1378:15, 18;1380:10;1390:5,7; 1391:5,7;1392:8; 1394:22;1398:1; 1401:17;1404:12; 1405:20,24;1406:2,6, 11;1407:4,6,10; 1420:21;1423:2 <b>Starbucks' (12)</b> 1263:21;1269:7; 1270:21;1273:16; 1275:9,13,21; 1322:11;1359:14; 1376:11;1378:22; 1394:4 <b>Starbucks-related (1)</b> 1365:22 <b>start (19)</b> 1230:18;1232:16;	1245:12,14;1246:22; 1250:25;1259:5; 1271:15;1283:25; 1291:6;1301:3; 1311:22;1312:12; 1366:2;1369:11; 1395:4,7;1402:6; 1423:4 <b>started (44)</b> 1230:19;1247:25; 1248:2;1249:22; 1257:2;1263:6; 1269:20,23;1272:13; 1279:18,22,25,25; 1282:12;1301:8,10, 11,19,23,23;1302:9; 1303:16;1304:11; 1315:22;1328:20; 1329:21;1342:11; 1343:13;1348:5; 1356:10,13;1359:22; 1369:22;1374:22,25; 1375:22;1376:15; 1390:16;1396:14; 1403:6;1404:12; 1410:11;1411:1; 1417:2 <b>starters (1)</b> 1324:20 <b>starting (4)</b> 1216:13;1272:4; 1288:4;1356:16 <b>starts (1)</b> 1224:23 <b>state (4)</b> 1247:5;1254:1; 1290:2;1363:7 <b>stated (4)</b> 1254:1,15;1325:18; 1330:13 <b>statement (17)</b> 1236:18;1260:10; 1262:10;1268:8,18; 1270:10,14;1281:10; 1300:14;1320:20; 1381:6;1383:22; 1384:22,23;1385:3; 1403:15;1419:24 <b>station (2)</b> 1371:17,23 <b>stay (6)</b> 1241:9,11;1242:4; 1277:13;1278:5; 1328:15 <b>stayed (1)</b> 1242:6 <b>Steakhouse (1)</b> 1311:16 <b>step (6)</b> 1231:1,8;1259:2; 1369:1;1373:6; 1400:8 <b>steps (1)</b>
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1402:4 <b>step's (1)</b> 1369:6 <b>still (25)</b> 1214:24;1215:4; 1218:12,17;1219:23; 1222:7;1236:15; 1239:24;1241:3; 1284:21;1292:19; 1294:8;1305:22; 1327:3;1335:8; 1353:13;1372:9; 1380:22;1381:17; 1382:11;1391:5; 1400:7;1405:22; 1409:16;1421:15 <b>stock (1)</b> 1316:24 <b>stood (1)</b> 1242:20 <b>stop (3)</b> 1241:6;1250:6; 1338:11 <b>stopped (2)</b> 1369:23;1402:3 <b>Stopping (4)</b> 1411:15,23;1412:4, 14 <b>store (147)</b> 1230:18;1232:4,10, 12;1233:18,19; 1235:18;1236:6,7,10; 1237:5;1238:17; 1239:13;1240:10,19, 22;1241:21,25; 1242:2,14;1244:8; 1248:15,24;1251:8; 1253:1;1254:2,16; 1255:22,24;1256:21; 1257:3,7,9;1258:5,9, 22;1260:23,24; 1261:2,4,6;1264:23; 1269:13;1272:19; 1273:3;1282:21,24; 1283:13,14,17,22,23; 1284:4,7,7,10,22; 1285:12,17;1286:22; 1291:9,20,23; 1293:21;1295:5; 1296:9,16;1297:5; 1299:24;1301:16,20, 22;1302:17;1304:25; 1305:2,9,15,24; 1312:15;1315:2,3; 1317:2,13,16;1329:6, 10,15,21;1331:16; 1333:12,14;1338:11, 11;1342:3;1343:6,10, 21;1344:4,8,14,20; 1355:4,8,22;1356:1, 13,18,23;1357:17; 1360:8,9;1364:7,17, 19;1365:3,5,8;	1366:24,24;1367:2, 19;1368:20;1370:17, 20;1371:3,23;1373:8, 10,16,20;1375:9; 1390:11,13,16; 1393:24;1396:12,13; 1397:21;1398:7,21, 22;1399:3,11,19; 1400:3,11;1405:9 <b>stores (24)</b> 1215:8,9;1232:13, 23,24;1233:10,10,15; 1234:15;1235:8; 1238:12,13,19; 1239:6,8,10,15; 1243:2,22;1333:22; 1355:13,16;1392:24; 1397:22 <b>store's (1)</b> 1235:11 <b>Street (10)</b> 1233:19;1238:20, 21;1307:21;1312:17, 19,20,23;1317:17; 1334:9 <b>stretch (2)</b> 1300:24;1346:23 <b>strict (2)</b> 1223:16;1345:17 <b>strike (20)</b> 1231:14;1234:11; 1235:16;1249:13; 1254:10,11;1261:1,2; 1282:14,18;1284:25; 1285:1,3;1294:7,19; 1318:8;1366:19; 1395:1;1396:9; 1401:8 <b>strided (1)</b> 1254:15 <b>strikes (15)</b> 1254:6,8,12; 1284:23;1285:3; 1294:6,14;1314:5; 1365:13,14,15; 1366:16,17;1392:14; 1393:2 <b>striking (1)</b> 1366:20 <b>strong (1)</b> 1223:1 <b>strongly (1)</b> 1419:24 <b>stuff (3)</b> 1225:21;1316:24; 1331:16 <b>subject (13)</b> 1214:7;1219:5,10; 1220:2;1222:13; 1253:18;1269:8; 1289:11;1375:13; 1378:20;1387:23; 1388:14;1416:1	<b>submit (1)</b> 1246:5 <b>submitted (2)</b> 1251:1;1370:1 <b>submitting (1)</b> 1415:2 <b>subpoena (14)</b> 1215:11;1224:10; 1228:20;1382:10,12; 1383:15;1385:17; 1386:10,10,13,14,19; 1414:10;1424:14 <b>subpoenas (4)</b> 1214:10,16,22; 1422:2 <b>subpoena's (1)</b> 1228:19 <b>subsequently (3)</b> 1230:24;1337:13; 1376:24 <b>substitute (4)</b> 1319:23;1322:1; 1347:2,18 <b>successor (1)</b> 1365:2 <b>suffice (1)</b> 1419:11 <b>suggest (1)</b> 1225:22 <b>Suite (1)</b> 1209:15 <b>summer (4)</b> 1261:1;1294:9; 1311:20,22 <b>super (1)</b> 1357:14 <b>supervisor (43)</b> 1230:25;1231:4,9; 1236:3,4,5;1242:1; 1249:9;1255:24; 1257:8,8,16;1258:23, 25;1277:4,11;1280:8; 1297:20,24;1298:1, 11;1304:17;1316:14; 1337:21;1338:23; 1339:1;1341:7; 1343:17;1345:13,15; 1351:2,5;1357:20; 1358:9,10,11;1361:2, 4,19;1370:20,23; 1391:4;1412:10 <b>supervisors (4)</b> 1284:4;1345:17; 1357:7;1361:13 <b>supplement (1)</b> 1394:8 <b>support (14)</b> 1250:2;1254:16; 1271:4;1273:4; 1282:12;1292:14; 1293:6;1313:20; 1340:15,17;1359:16; 1391:23;1392:12,22	<b>supported (1)</b> 1292:12 <b>supporter (2)</b> 1340:5;1391:22 <b>supporting (1)</b> 1292:11 <b>suppose (1)</b> 1220:8 <b>supposed (16)</b> 1239:16;1261:18; 1279:1;1283:25; 1284:2,19;1305:15; 1350:7;1361:17; 1373:21;1375:6; 1399:9,14;1400:6; 1402:7;1406:25 <b>Sure (55)</b> 1215:14;1217:20; 1219:14,25;1222:18; 1225:3,4,19,24; 1226:21;1231:17; 1233:5;1234:1; 1240:18;1243:20; 1244:21;1246:2; 1250:20;1265:17; 1267:14;1271:17; 1279:22;1281:18; 1290:4;1292:24,25; 1293:1;1307:10; 1315:12;1320:4; 1323:18;1334:9; 1344:2;1345:13; 1349:3;1350:14; 1353:24;1354:18; 1359:6;1360:16; 1363:2;1385:6,9,15; 1387:14;1398:6; 1399:12;1400:16; 1401:22;1405:7; 1406:9;1409:23; 1416:17;1417:3; 1425:16 <b>survey (1)</b> 1232:22 <b>suspect (2)</b> 1226:1,2 <b>sustain (2)</b> 1231:16;1277:24 <b>Sustained (4)</b> 1235:19;1273:12; 1282:18;1344:6 <b>sweat (1)</b> 1402:21 <b>switched (1)</b> 1347:9 <b>sworn (7)</b> 1229:21;1247:13; 1290:10;1310:10; 1363:15;1389:17; 1409:21 <b>system (1)</b> 1370:2	<b>table (7)</b> 1298:21;1334:11, 16;1384:13;1401:11; 1410:10,11 <b>talk (18)</b> 1217:19;1249:18, 24;1259:7;1292:16; 1293:7;1306:16; 1319:2;1328:9; 1341:18;1369:24; 1371:19,21;1373:6; 1374:2;1392:5; 1401:21;1414:23 <b>talked (12)</b> 1297:23,24;1317:4; 1333:7;1341:19; 1351:14;1392:2; 1398:7,9;1399:19; 1402:1;1417:10 <b>talking (17)</b> 1225:19;1228:23; 1246:16;1257:21; 1265:7;1277:16,16; 1281:4;1282:21; 1313:18;1327:5; 1331:9;1337:2; 1341:5,6,20;1421:13 <b>talks (1)</b> 1288:5 <b>tally (1)</b> 1309:1 <b>tape (1)</b> 1386:14 <b>tardiness (4)</b> 1275:25;1281:12, 13,23 <b>tardy (1)</b> 1282:1 <b>task (1)</b> 1280:1 <b>tasked (1)</b> 1424:22 <b>tasks (2)</b> 1280:3,5 <b>taxed (1)</b> 1425:5 <b>team (4)</b> 1232:11;1264:3; 1365:18;1366:11 <b>tears (1)</b> 1402:21 <b>technically (1)</b> 1311:1 <b>telling (3)</b> 1251:23;1259:1; 1398:24 <b>tells (1)</b> 1216:1 <b>ten (6)</b> 1226:25;1245:14;

1262:11;1289:22,23; 1300:16 <b>tend (1)</b> 1342:15 <b>ten-minute (1)</b> 1289:21 <b>tens (1)</b> 1395:9 <b>terminate (2)</b> 1272:22;1273:6 <b>terminated (7)</b> 1273:11;1300:4; 1332:24;1340:2; 1358:24;1359:10,13 <b>terminating (1)</b> 1300:7 <b>termination (15)</b> 1248:23;1269:8; 1270:23;1275:11; 1276:1;1316:7; 1334:18;1366:22; 1367:15;1369:6; 1372:10;1375:14; 1409:4,9;1410:5 <b>terms (7)</b> 1223:8;1225:20; 1228:23;1253:15; 1346:14;1419:11,18 <b>terrible (1)</b> 1223:24 <b>terrific (1)</b> 1414:11 <b>testified (44)</b> 1229:22;1237:4; 1238:2;1239:17; 1241:3;1247:14; 1250:18;1253:23; 1263:7;1265:12; 1266:19;1268:25; 1276:7,23;1277:5; 1280:15;1283:2; 1287:4;1290:11; 1296:8;1301:8; 1304:16;1310:11; 1325:20;1349:7; 1350:20,23;1351:1, 10;1352:25;1355:11; 1356:10;1359:21; 1360:18;1361:1; 1363:16;1380:1; 1389:18;1397:1; 1405:9;1409:22; 1410:17;1418:21,21 <b>testify (11)</b> 1222:20;1227:15; 1235:17;1276:25; 1278:8;1290:13; 1387:2;1416:15; 1418:14,19;1420:24 <b>testifying (1)</b> 1383:1 <b>testimony (52)</b> 1238:18;1242:21;	1245:1,3;1265:15,21; 1271:1;1273:1; 1276:5,21;1280:23; 1281:11,15,16,21; 1282:5,22;1288:16, 17;1289:4;1300:24; 1305:20;1306:9,10; 1318:9;1326:7; 1346:24;1350:4,24; 1351:3,16;1353:13; 1354:1,7;1355:15; 1360:22;1362:8,8; 1381:6;1387:3; 1388:15;1403:23; 1404:19;1405:23,24; 1406:19;1407:18,19; 1410:4,5,6;1419:13 <b>texted (4)</b> 1297:20,20;1298:3; 1305:18 <b>texting (1)</b> 1305:25 <b>Thanks (4)</b> 1214:19;1262:25; 1407:19;1409:2 <b>that's' (1)</b> 1222:13 <b>That'll (1)</b> 1288:19 <b>theirs (2)</b> 1322:19,19 <b>theoretically (2)</b> 1418:8,15 <b>they/them (1)</b> 1390:3 <b>thinking (2)</b> 1261:25;1385:7 <b>third (6)</b> 1226:25;1233:12; 1260:10;1287:18; 1345:24,25 <b>Thomas (3)</b> 1381:24;1382:1,4 <b>though (12)</b> 1220:19;1222:17; 1272:23;1273:1; 1302:8;1345:14; 1353:14;1357:23; 1383:1;1413:19; 1416:5;1422:21 <b>thought (9)</b> 1222:15;1223:2; 1227:15;1280:7; 1349:3;1379:3,5; 1399:18;1424:10 <b>three (26)</b> 1216:17;1219:24; 1221:3;1224:23; 1227:2;1233:10; 1234:7;1237:11,17, 18;1238:1;1257:23; 1274:19;1277:7,7; 1278:6;1299:22;	1306:18;1312:24; 1334:19;1363:4; 1390:21;1396:8; 1418:10;1420:16; 1423:7 <b>three-week (3)</b> 1218:20;1220:11; 1226:5 <b>throughout (3)</b> 1214:16;1282:10; 1366:13 <b>throw (1)</b> 1258:8 <b>Thursday (1)</b> 1415:19 <b>til (3)</b> 1220:19;1228:8; 1258:13 <b>Tim (3)</b> 1392:16;1393:4,5 <b>timeframe (4)</b> 1222:20;1233:3; 1286:10;1420:7 <b>timeline (1)</b> 1270:25 <b>timelines (1)</b> 1223:16 <b>times (31)</b> 1238:3;1255:22; 1261:16,25;1265:6; 1276:14;1280:20; 1282:11;1283:11,15, 17;1284:21;1286:23; 1287:14,21;1288:9; 1304:16,17;1338:20, 24;1339:16;1345:9, 10;1357:7,16;1358:4; 1360:19,23;1378:8; 1395:17;1399:9 <b>timing (3)</b> 1323:23;1330:17, 25 <b>timing-wise (1)</b> 1414:20 <b>tired (1)</b> 1408:24 <b>title (1)</b> 1298:10 <b>today (14)</b> 1214:15;1217:24; 1226:22;1227:23; 1228:2;1229:4; 1230:9;1242:21; 1246:12;1252:19; 1283:18;1422:22; 1425:5,5 <b>together (6)</b> 1217:17;1218:24; 1221:20;1223:23; 1224:2;1262:13 <b>told (54)</b> 1218:5,7,10; 1229:4;1234:5,16;	1235:24,24;1241:20; 1242:1,17;1244:8,11, 16;1252:25;1276:11; 1283:20;1314:4,21, 25;1315:1,3,6,7; 1316:14;1317:4,19; 1319:1;1333:15; 1341:2,25;1343:2; 1344:25;1349:8; 1350:3;1351:2,5,13; 1355:19,20;1360:18; 1370:2,4;1371:25; 1372:2;1374:6; 1388:21;1398:24; 1403:1,4;1405:25; 1406:1,25;1423:4 <b>Toller (1)</b> 1403:8 <b>tomorrow (8)</b> 1218:8,11;1228:2, 23;1229:6;1415:15; 1423:5;1425:8 <b>tonight (1)</b> 1415:9 <b>took (12)</b> 1298:21;1315:16, 17;1334:1;1340:24; 1341:1,14;1365:6; 1396:20;1398:19; 1411:1,2 <b>top (5)</b> 1285:21;1322:12; 1347:12;1353:7; 1394:16 <b>topic (1)</b> 1402:6 <b>total (1)</b> 1379:13 <b>totally (1)</b> 1341:13 <b>touch (1)</b> 1217:23 <b>towards (1)</b> 1408:8 <b>tracking (1)</b> 1233:9 <b>tracks (1)</b> 1402:3 <b>train (1)</b> 1312:22 <b>trained (2)</b> 1291:13;1312:17 <b>training (4)</b> 1242:14;1301:12, 17;1317:18 <b>Trans (1)</b> 1235:22 <b>transfer (8)</b> 1234:23;1237:5; 1269:4,12,17,19; 1291:20;1302:21 <b>transferred (18)</b> 1239:3,20;1248:8,	9,15,21;1263:10,15; 1268:25;1269:22; 1272:19;1285:15,16; 1291:21;1302:13,16; 1312:17;1390:25 <b>transferring (2)</b> 1234:6;1268:22 <b>Transit (37)</b> 1230:19;1231:23, 25;1232:8;1233:17, 23;1234:16,24; 1238:11,20;1239:21; 1241:8,13,21;1242:8, 13,18,22;1243:3,4; 1244:6;1308:1; 1312:18,25;1313:16; 1314:11,11,14,25; 1329:17;1362:15,16; 1390:12,15,17,22; 1404:12 <b>transmitting (1)</b> 1381:17 <b>transpired (3)</b> 1299:18;1326:4; 1399:24 <b>traveling (1)</b> 1415:14 <b>trials (1)</b> 1397:9 <b>tried (6)</b> 1277:15;1318:23, 25;1320:13;1321:16; 1335:7 <b>true (7)</b> 1241:9,12;1242:3; 1270:20;1271:9; 1336:8;1375:16 <b>truth (2)</b> 1343:23,24 <b>try (5)</b> 1227:22;1228:17; 1229:4;1272:15; 1321:19 <b>trying (10)</b> 1214:24;1218:18; 1227:20;1228:21,25; 1229:8;1276:18; 1371:7;1422:23; 1424:6 <b>Tuesday (4)</b> 1223:21;1227:16; 1418:17;1423:19 <b>turn (5)</b> 1255:4;1285:20; 1287:7,18;1382:21 <b>turned (1)</b> 1407:2 <b>tweet (2)</b> 1254:1,4 <b>Twitter (2)</b> 1253:7;1254:1 <b>two (53)</b> 1217:12;1218:2;
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1223:6;1226:5; 1231:10;1234:7; 1237:11,21;1246:14; 1257:8,22;1259:14; 1276:20,21;1277:1,5, 6,7,8,8;1293:12; 1294:9;1303:6,6; 1305:8;1312:24; 1322:22;1325:4; 1337:1;1344:18; 1345:10;1349:1,5,12, 13;1353:19,23; 1354:3;1355:23; 1360:11,15,19,23; 1377:21;1378:8,11; 1383:13;1384:19; 1386:18;1387:1; 1395:9,9;1422:13 <b>two-day (1)</b> 1366:19 <b>type (4)</b> 1222:1;1225:22; 1381:10;1410:15 <b>typed (2)</b> 1323:17,19 <b>typically (12)</b> 1256:24;1257:1,2, 20,22;1277:3;1279:8, 10;1313:6,8,11; 1397:21	<b>uniform (1)</b> 1250:22 <b>union (83)</b> 1215:12;1249:11, 12,18;1250:4,5; 1251:24;1254:2; 1271:2,5,9,15,23; 1272:3,4,6;1273:3,5; 1282:12;1286:9,15; 1287:1,12;1292:7,12, 13,23;1293:6,7,9; 1294:1;1295:24; 1296:2,6,9,12;1300:7, 9;1313:13,20,24; 1314:21;1315:13,18, 21;1340:4;1349:14, 17,19,22,24;1350:2, 14,18;1355:16; 1359:16;1365:8,10, 16;1366:12;1386:13, 14;1391:16,19,23; 1392:7,8,12,22; 1394:23;1396:12,18; 1399:2,3;1405:18,22, 23;1406:2,5,11; 1407:6;1408:16; 1414:12 <b>union-issued (1)</b> 1349:2 <b>unionization (6)</b> 1249:17,18,24; 1250:2;1314:14; 1356:23 <b>unionize (4)</b> 1264:24;1271:24; 1282:12;1314:12 <b>unionized (5)</b> 1293:21;1356:13, 16,17;1408:8 <b>unit (1)</b> 1308:9 <b>UNITED (13)</b> 1209:8;1250:9,12; 1253:7;1254:1; 1271:14;1293:9; 1313:13,15,17; 1349:15;1365:24,25 <b>unless (2)</b> 1215:15;1384:2 <b>unpack (1)</b> 1256:23 <b>unrelated (1)</b> 1222:20 <b>unsafe (1)</b> 1366:21 <b>unwell (1)</b> 1370:18 <b>unwilling (2)</b> 1245:24;1415:6 <b>up (68)</b> 1214:20;1217:7,23; 1218:20;1219:24; 1226:24,25;1227:1,9,	16;1232:6;1234:9,15; 1237:4;1238:19; 1243:16;1254:15; 1258:8,9;1262:2; 1270:22;1275:11; 1276:14,17;1279:14; 1281:13;1283:10,19; 1288:24;1292:20; 1296:14;1297:22; 1299:15;1308:18; 1309:24;1310:20; 1322:16;1330:9; 1331:15;1339:10; 1341:17;1349:8; 1355:24;1357:21; 1358:12;1370:8,18, 22;1372:1,3,7,8; 1373:5,16,17;1374:1, 6,8;1375:14;1383:23; 1384:13;1392:16,20, 23;1393:4;1400:4; 1401:23;1410:10 <b>upcoming (3)</b> 1231:13;1232:7; 1395:1 <b>upon (4)</b> 1269:4,12,17,19 <b>upset (3)</b> 1318:4;1343:14; 1371:15 <b>urging (1)</b> 1254:15 <b>use (9)</b> 1218:20;1223:19; 1247:4;1262:14; 1263:17;1320:8; 1324:14;1344:16; 1410:13 <b>used (4)</b> 1224:13;1228:20; 1290:18;1405:3 <b>using (2)</b> 1325:21;1384:12 <b>usually (5)</b> 1250:22;1257:7; 1276:19;1277:6; 1313:9 <b>utilizing (1)</b> 1326:5	1424:12 <b>version (4)</b> 1322:10;1356:19; 1368:3,9 <b>via (1)</b> 1252:12 <b>vice (1)</b> 1424:12 <b>viewing (1)</b> 1238:25 <b>violate (6)</b> 1273:15,18; 1275:13;1305:25; 1378:15,22 <b>violated (2)</b> 1305:14;1376:10 <b>violating (4)</b> 1269:7;1302:22; 1303:5;1378:18 <b>violation (6)</b> 1255:2;1265:4; 1273:7,21;1357:1; 1371:14 <b>violations (6)</b> 1267:20;1275:9,21; 1282:6;1303:14; 1359:13 <b>violence (4)</b> 1371:6,9;1373:8,23 <b>virtue (5)</b> 1269:6;1275:8; 1305:13;1348:11; 1378:18 <b>visible (1)</b> 1405:13 <b>voice (5)</b> 1291:14;1411:17, 19,25,25 <b>voices (1)</b> 1412:6 <b>Voir (1)</b> 1252:6 <b>VOIR-DIRE (1)</b> 1252:8 <b>voluminous (1)</b> 1420:20 <b>voluntarily (3)</b> 1392:15,18;1407:9 <b>vote (4)</b> 1301:25;1302:5; 1315:22;1349:25 <b>voted (2)</b> 1407:7,8 <b>voter (2)</b> 1308:14,19 <b>voting (1)</b> 1308:13	1370:19;1373:15 <b>Walden (3)</b> 1233:17,24; 1238:20 <b>walk (7)</b> 1329:6,9,21; 1337:12;1352:16; 1398:7;1403:24 <b>walked (8)</b> 1331:16;1341:3; 1343:5,11;1372:5; 1374:4;1401:11; 1410:10 <b>walking (1)</b> 1400:11 <b>wall (1)</b> 1397:23 <b>wants (1)</b> 1225:11 <b>warm (1)</b> 1314:8 <b>warning (65)</b> 1255:1;1260:11,15, 20;1265:9,13,20; 1266:18;1267:19; 1273:21;1274:13; 1275:18,25;1282:2,3; 1297:2;1303:8,9; 1316:6,6,10;1317:15, 23;1318:12,24; 1319:4,12;1320:19; 1321:1,4;1326:4; 1328:10;1330:1,18, 25;1331:9,14;1332:5; 1350:24;1352:2,5,9, 13,20;1353:2,5,23; 1354:2;1355:1; 1368:14,15,17,24; 1369:4,14,18;1376:7, 23,24;1377:8;1401:1; 1402:5;1413:14,17,20 <b>warnings (1)</b> 1369:4 <b>watching (1)</b> 1397:5 <b>water (2)</b> 1247:3;1309:23 <b>waved (1)</b> 1402:24 <b>way (15)</b> 1214:23;1216:13; 1219:21;1221:2; 1223:5,13;1228:3; 1258:9;1298:21; 1324:12,18;1402:25; 1410:22;1412:8; 1413:2 <b>wear (24)</b> 1250:13,15,21,22; 1292:18;1293:7,8,10, 13,15,16,19;1314:3, 21;1315:15;1332:15, 18;1342:6;1349:1;
<b>U</b>				
<b>ultimately (1)</b> 1379:11 <b>unable (1)</b> 1258:24 <b>unaware (1)</b> 1385:19 <b>under (14)</b> 1239:5;1240:1; 1252:3;1266:12; 1284:21;1372:9; 1383:2,11;1384:18; 1385:22;1387:16; 1388:10;1406:12; 1409:16 <b>underlying (1)</b> 1309:14 <b>understood (7)</b> 1240:19;1269:6; 1270:20;1275:8; 1289:7;1378:19; 1426:3 <b>unfair (3)</b> 1366:20;1418:10; 1422:20 <b>Unfortunately (4)</b> 1237:14;1370:21; 1393:15;1398:12 <b>UNIDENTIFIED (4)</b> 1303:24;1378:25; 1403:13;1411:14	<b>unless (2)</b> 1215:15;1384:2 <b>unpack (1)</b> 1256:23 <b>unrelated (1)</b> 1222:20 <b>unsafe (1)</b> 1366:21 <b>unwell (1)</b> 1370:18 <b>unwilling (2)</b> 1245:24;1415:6 <b>up (68)</b> 1214:20;1217:7,23; 1218:20;1219:24; 1226:24,25;1227:1,9,	<b>vacation (1)</b> 1405:3 <b>variety (1)</b> 1417:25 <b>various (5)</b> 1250:9;1280:20; 1366:13;1414:12; 1421:8 <b>vary (1)</b> 1279:11 <b>versa (1)</b>	<b>V</b>	<b>wait (1)</b> 1412:9 <b>waiting (2)</b>
			<b>W</b>	

1361:18;1365:19,21; 1392:6,9 <b>wearing (18)</b> 1315:11,12,22; 1332:3,18;1340:10; 1341:9;1344:12; 1348:23;1349:11,13, 21,24;1350:2; 1355:10;1360:23; 1366:3,6 <b>Wednesday (1)</b> 1313:9 <b>week (18)</b> 1214:16;1223:23; 1293:15;1313:6; 1314:24;1340:25; 1344:14;1417:18,19; 1418:5,9;1419:9; 1420:15;1422:17; 1424:6;1425:8,14,14 <b>weekdays (1)</b> 1261:13 <b>weekend (3)</b> 1214:8;1219:22; 1313:10 <b>weekends (1)</b> 1261:12 <b>weekly (1)</b> 1257:6 <b>weeks (7)</b> 1219:24;1220:21; 1221:3;1234:8; 1312:24;1420:13; 1423:7 <b>weeks' (3)</b> 1396:8;1418:10; 1420:16 <b>welcome (3)</b> 1309:19,24; 1320:14 <b>weren't (3)</b> 1357:17;1392:10; 1402:13 <b>west (1)</b> 1420:8 <b>WHALEN (2)</b> 1324:13,16 <b>what's (22)</b> 1225:20;1251:15; 1254:17;1257:5; 1259:16;1264:6; 1265:24;1270:1; 1274:9;1275:24; 1279:8;1294:22; 1298:14;1367:6; 1376:3;1377:4,24; 1393:9;1413:11; 1417:1,11;1421:10 <b>whenever (4)</b> 1301:3;1387:4; 1392:3;1401:15 <b>whereabouts (1)</b> 1404:20	<b>Whereupon (8)</b> 1229:19;1247:11; 1290:8;1310:8; 1363:13;1389:15; 1409:19;1426:7 <b>wherever (1)</b> 1244:16 <b>Whichever (2)</b> 1390:3,3 <b>white (1)</b> 1402:10 <b>whole (3)</b> 1223:3;1342:19,20 <b>who's (3)</b> 1225:21;1236:3; 1329:14 <b>whose (3)</b> 1320:21;1411:19, 25 <b>wide (1)</b> 1342:19 <b>widely (1)</b> 1357:14 <b>wiggle (1)</b> 1418:25 <b>Williamsville (29)</b> 1230:21;1233:20; 1234:3,20;1237:5; 1238:23;1239:18,21; 1240:3,23;1241:4,6,9, 25;1242:2,4;1243:6, 8;1244:7,15;1308:4,7, 12,14,19,25;1309:2,4; 1312:20 <b>willing (2)</b> 1392:4;1419:4 <b>Wisconsin (4)</b> 1248:5,6,7;1257:17 <b>withdraw (3)</b> 1282:15,17; 1335:12 <b>withdrew (1)</b> 1282:19 <b>within (5)</b> 1239:6;1322:24; 1345:25;1375:6; 1418:5 <b>without (1)</b> 1262:2 <b>witness (119)</b> 1218:2,5;1219:16; 1220:6;1221:24; 1222:3,19;1223:6; 1226:19,23,24,24,25; 1227:1,5,9,10; 1229:10,21,24; 1234:15;1235:16; 1240:17;1245:2,5,7, 10,13;1246:25; 1247:13,16;1249:4, 17,24;1250:18,21; 1251:13;1253:10,19; 1256:15,18;1259:10;	1273:11;1278:2; 1288:18,21;1289:9, 11,18,23;1290:10,23, 25;1292:19,21; 1296:5,13;1298:8,11; 1299:15;1304:2,4; 1306:11,13;1310:10; 1318:3,9;1319:7,9; 1323:12;1324:5,21, 23,25;1325:4,6,19; 1326:10;1331:11; 1337:16;1339:7,11, 15;1346:6,8;1350:9, 12;1357:25;1358:1; 1363:15,18;1371:13; 1383:1;1384:23,24; 1385:4;1387:6,8,11; 1388:16,18,20; 1389:4,17,24;1397:7, 9;1407:16,20,23; 1409:21;1414:4; 1416:13;1417:4; 1419:25;1420:21,22, 24;1425:25 <b>witness' (3)</b> 1289:4;1297:6; 1326:6 <b>witnessed (4)</b> 1357:20,23;1358:6, 12 <b>witnesses (29)</b> 1217:23;1220:23, 23;1223:11,15; 1226:22;1227:2,2; 1228:2;1306:17; 1414:6,7;1416:6,18, 18,21;1418:8,13,16, 17,18,23;1419:1; 1420:6,7,14,19; 1421:8,9 <b>witnesses' (1)</b> 1423:16 <b>woke (1)</b> 1370:22 <b>woken (4)</b> 1299:15;1370:17; 1373:17;1374:8 <b>won (2)</b> 1315:22;1349:25 <b>word (3)</b> 1322:25;1412:16; 1416:25 <b>wore (17)</b> 1250:4,7,16,18; 1292:16;1313:24; 1314:2,4;1315:21; 1342:4;1345:11; 1356:25;1360:19; 1361:19;1365:22; 1392:2,7 <b>work (63)</b> 1218:6,7;1228:5, 16,21;1232:25;	1241:3;1248:6; 1250:15;1261:9,11, 14,19,22;1264:2,25; 1269:10;1274:17; 1276:20;1281:19; 1291:11;1292:2,15; 1300:18,20;1304:18; 1305:4;1311:15,19; 1312:16;1313:6,8,11; 1316:13;1332:20; 1333:25;1334:3; 1337:9;1339:10; 1340:10,13,22; 1341:17;1344:13; 1345:6;1357:21; 1358:12;1364:7,12; 1365:19;1366:21; 1377:2;1378:11,14; 1390:19;1391:5,24; 1394:19;1395:8; 1396:14;1403:20; 1415:11;1422:13 <b>worked (23)</b> 1230:8,15;1233:24; 1247:22;1248:7,17, 18,22;1261:10; 1281:19;1291:4,17; 1300:2;1311:17; 1312:15;1313:3; 1317:16;1364:3; 1375:25;1390:5; 1401:16;1402:19; 1414:23 <b>worker (1)</b> 1292:11 <b>WORKERS (13)</b> 1209:8;1250:9,11; 1253:7,25;1271:14; 1293:9;1313:13,15, 17;1349:15;1365:24, 25 <b>working (58)</b> 1230:16,18,19; 1231:6,23,25; 1232:19;1239:24; 1241:6;1243:8; 1247:24;1248:3,16; 1256:7;1258:23,25; 1260:13,14;1263:6; 1264:4;1278:6; 1291:6;1301:8,10,19; 1302:9;1303:8,16; 1304:11;1310:21; 1311:22;1312:12; 1313:21;1316:2,11, 17;1317:17;1321:17; 1333:3;1334:5; 1338:18;1339:18; 1348:5;1356:10,14; 1358:7;1364:5; 1365:7;1371:14; 1373:5;1374:22,25; 1375:22;1376:15;	1390:7,11,16;1401:3 <b>workplace (5)</b> 1371:6,9,14; 1373:8,23 <b>works (5)</b> 1324:12;1331:8; 1347:17;1353:1,14 <b>world (1)</b> 1229:3 <b>worn (1)</b> 1345:6 <b>worse (1)</b> 1347:10 <b>worth (1)</b> 1396:8 <b>write (10)</b> 1241:19;1242:17; 1244:1;1290:23; 1330:11;1339:17,19; 1371:19,25;1372:1 <b>writeup (5)</b> 1302:23;1369:6; 1393:17;1402:2,4 <b>writing (9)</b> 1321:23;1322:24; 1323:2,9,10,13; 1324:19,24;1354:19 <b>written (76)</b> 1255:1;1260:11,15, 20;1265:9,13,20; 1266:18;1267:19; 1273:21;1274:13; 1275:18,25;1281:10, 10;1282:2,3;1297:1; 1303:8,9;1316:6,6,10; 1317:14,22;1318:12, 23;1319:3,12; 1320:19;1321:1,4; 1326:3;1328:9; 1330:1,18,25;1331:9, 14;1332:5;1350:23; 1352:2,5,9,13,19; 1353:2,5,22;1354:2, 25;1368:14,15,17,23; 1369:2,2,4,4,10,10,14, 18,25;1370:3; 1371:15;1376:7,23, 24;1377:8;1401:1,23; 1402:5;1413:14,17,20 <b>writtens (1)</b> 1370:5 <b>wrong (9)</b> 1216:1;1266:13; 1276:14,17;1280:7; 1285:2;1333:18; 1349:4;1355:12 <b>wrote (8)</b> 1258:21;1268:21, 24;1295:12;1331:13; 1354:17;1371:25; 1380:6
--	--	--	--	--

Y	10A (1) 1307:12 10B (1) 1307:22 10G (1) 1307:24 10J (1) 1308:4 10M (1) 1308:2 11/3/22 (1) 1394:13 11:22 (1) 1289:25 11:32 (1) 1289:25 11:48 (1) 1301:1 118a (1) 1387:17 11I (2) 1290:21,22 11J (4) 1247:17,19; 1290:21,22 11th (1) 1287:11 12/16/22 (1) 1265:14 12:00 (1) 1301:1 12:05 (3) 1300:18,20,23 12:11 (1) 1306:22 12th (5) 1254:12;1285:1; 1286:23;1288:6; 1366:19 13 (1) 1346:18 130 (1) 1209:14 13th (2) 1259:6;1299:8 14 (1) 1242:16 14202-2465 (1) 1209:15 14th (10) 1254:12;1270:8; 1271:20;1273:15; 1285:1,21;1364:6; 1366:19;1374:23; 1375:22 15 (5) 1270:11;1271:17, 18;1286:5;1426:8 15th (6) 1223:14;1224:2; 1382:7;1418:14; 1425:18;1426:5 16 (1)	1294:18 16th (8) 1286:18;1340:10, 14;1344:11;1345:3,4, 7;1361:22 17th (6) 1287:9,20;1288:9; 1369:14;1377:9; 1413:17 18th (1) 1274:14 1st (13) 1256:16;1257:11, 25;1258:1,10;1276:4; 1278:4;1279:3,4,6,14, 22;1280:12	1262:1;1272:13; 1285:2;1293:24; 1294:12;1311:20,23; 1312:13;1313:1; 1315:25;1333:1,3; 1364:24;1367:4; 1382:7;1393:7; 1394:19;1397:15 2023 (3) 1209:16;1401:6; 1426:8 20th (4) 1259:4,5,6;1424:18 21 (11) 1271:10,19,20; 1273:20;1274:14; 1285:21;1301:9; 1368:12;1374:23; 1375:22;1376:8 21st (3) 1259:4,12;1378:5 22 (15) 1242:16;1264:23; 1271:1;1284:24; 1294:11;1302:11; 1305:18;1348:5; 1349:8;1356:11; 1357:4;1366:15; 1371:13;1377:9; 1379:12 22nd (4) 1370:14;1371:3; 1372:18;1373:13 23 (2) 1241:7;1274:20 235 (1) 1364:8 23rd (1) 1305:18 24th (6) 1209:15;1214:3; 1259:4;1260:11; 1285:9;1372:22 25 (3) 1313:7;1334:1,2 25th (1) 1295:6 26 (1) 1376:8 26th (3) 1259:4;1337:6; 1368:12 27 (3) 1264:7,21;1274:21 277 (1) 1395:16 28 (2) 1265:25;1267:8 29 (3) 1267:11;1268:1,5 2nd (4) 1271:19;1286:8,11; 1339:3	3 3 (2) 1209:14;1226:8 3/1 (2) 1256:5,16 3:08 (1) 1363:5 3:15 (1) 1363:5 3:32 (2) 1374:13,18 3:45 (2) 1374:14,18 3:57 (1) 1386:3 30 (10) 1244:20;1270:2; 1274:7,20;1313:7; 1335:7,8,10;1336:13, 22 30-minute (1) 1395:9 30th (4) 1291:8,8;1301:9; 1372:13 31 (2) 1274:10;1275:6 32 (2) 1327:10,16 33 (2) 1376:4,21 34 (3) 1377:5,15,19 35 (3) 1268:9;1380:17; 1413:12 3rd (8) 1297:2;1372:8; 1386:23;1394:19; 1397:15;1399:24; 1414:15,16
year (6) 1215:12;1231:5,6; 1294:10;1302:18; 1391:9 years (3) 1231:10;1390:21; 1402:20 Yellis (1) 1360:14 yesterday (1) 1307:5 York (2) 1209:15;1425:19				
0		2		
03-CA-295810 (1) 1209:4				
1				
1 (5) 1215:10,17; 1222:23;1424:14,18 1,700 (1) 1421:22 1/10/20 (1) 1268:8 1/11/20 (1) 1268:9 1/13/20 (1) 1268:9 1/24/20 (2) 1265:20;1266:19 1:27 (1) 1306:22 1:56 (1) 1412:4 10/22 (1) 1372:16 10/31/22 (1) 1375:23 10:02 (1) 1245:18 10:20 (1) 1262:16 10:27 (1) 1262:23 10:30 (2) 1227:1;1262:12 10:45 (1) 1262:12 10:48 (1) 1262:23 10:50 (3) 1262:16,17,18 102- (1) 1387:16 102.118 (1) 1382:24		2 (4) 1226:8;1294:23; 1324:19;1327:20 2/21 (1) 1377:24 2:03 (1) 1412:14 2:28 (1) 1346:25 2:30 (1) 1346:19 2:49 (1) 1346:25 2:50 (1) 1346:20 20 (1) 1285:9 2014 (3) 1248:1,7;1263:7 2017 (1) 1230:17 2019 (7) 1248:8,9,18; 1266:3;1390:8,10; 1404:12 2020 (11) 1215:12,16;1217:8; 1248:18,19,22; 1260:11;1285:16,25; 1294:10;1424:15 2021 (21) 1215:11,17; 1232:16;1249:25; 1250:3,4;1269:21; 1270:8;1271:5; 1273:15;1287:9,11, 20;1291:8;1293:22; 1364:6;1366:5; 1391:2,12;1424:14,18 2022 (29) 1231:20,23; 1232:17;1249:18; 1253:5,6,15;1254:10, 12;1255:2;1261:5;		4 4:00 (1) 1305:16 4:09 (1) 1386:3 4:13 (1) 1389:3 4:30 (2) 1388:22,24 4:32 (1) 1389:3 4:52 (1) 1403:25 40 (3) 1284:20,20,21 45 (2) 1262:2;1268:9 4th (6)

1266:3;1338:15,17, 25;1339:3;1357:4	1353:8 <b>8/16/22 (1)</b>	1308:11 <b>91 (2)</b>		
<b>5</b>	1325:12 <b>8/2/21 (2)</b>	1308:14,18 <b>92 (2)</b>		
<b>5 (1)</b> 1384:10	1270:11;1286:5 <b>8/4/22 (1)</b>	1308:16,25 <b>93 (2)</b>		
<b>5:00 (2)</b> 1388:25;1403:25	1325:11 <b>8:59 (1)</b>	1309:1,3 <b>94 (4)</b>		
<b>5:07 (2)</b> 1409:14,14	1214:2 <b>80 (3)</b>	1307:1,2;1309:3,16 <b>95 (10)</b>		
<b>5:09 (5)</b> 1411:12,12,22,22; 1412:3	1259:17,18;1260:7 <b>81 (3)</b>	1319:17,18;1321:6, 11;1325:17;1326:16; 1327:24;1353:19; 1354:12,13		
<b>5:11 (1)</b> 1412:3	1289:13;1408:3,15 <b>82 (3)</b>	<b>95A (1)</b> 1325:21		
<b>5:12 (3)</b> 1412:13,13,21	1294:23,25; 1295:18 <b>83 (4)</b>	<b>96 (2)</b> 1362:13,14		
<b>5:13 (1)</b> 1412:21	1298:15,16;1299:4, 5 <b>84 (4)</b>	<b>97 (4)</b> 1367:7,8;1368:6,7		
<b>5:26 (1)</b> 1426:7	1296:19,20; 1297:13,14 <b>85 (4)</b>	<b>98 (6)</b> 1393:10,11;1394:2, 6,7;1401:5		
<b>5th (2)</b> 1254:10;1284:24	1307:1,2,10; 1309:16 <b>86 (1)</b>	<b>99 (5)</b> 1409:10,11; 1411:10;1413:6,9		
<b>6</b>	1307:21 <b>87 (1)</b>	<b>99's (1)</b> 1413:8		
<b>60 (1)</b> 1378:11	1307:23 <b>88 (1)</b>	<b>9G (2)</b> 1290:20,21		
<b>630 (1)</b> 1209:15	1308:1 <b>89 (1)</b>	<b>9I (8)</b> 1247:17,18; 1290:21;1310:22,23, 24;1389:22,23		
<b>6A (4)</b> 1229:25;1230:2; 1308:9,23	1308:3 <b>8th (10)</b>	<b>9J (7)</b> 1247:17,19; 1290:21;1311:1,2; 1363:19,20		
<b>6B (1)</b> 1310:15	1220:20;1224:3; 1247:25;1248:7; 1297:17;1298:8; 1417:13,14,21;1422:8	<b>9K (1)</b> 1311:1		
<b>6J (2)</b> 1310:17,24				
<b>7</b>	<b>9</b>			
<b>7/28 (2)</b> 1328:7;1353:11	<b>9 (1)</b> 1247:18			
<b>7:00 (1)</b> 1257:3	<b>9/14 (1)</b> 1286:5			
<b>7:30 (3)</b> 1257:3;1258:12,16	<b>9/14/21 (1)</b> 1270:11			
<b>75 (1)</b> 1268:9	<b>9/16/22 (2)</b> 1359:20;1360:18			
<b>78 (3)</b> 1251:14,16;1254:3	<b>9:00 (2)</b> 1209:16;1426:9			
<b>79 (6)</b> 1254:18,19; 1255:10,13;1275:17, 20	<b>9:28 (1)</b> 1236:22			
<b>7th (6)</b> 1288:6;1332:25; 1333:3;1338:8; 1345:3;1401:5	<b>9:30 (4)</b> 1236:21;1258:13, 16;1279:9			
<b>8</b>	<b>9:44 (1)</b> 1236:22			
<b>8/1/22 (1)</b>	<b>9:45 (1)</b> 1236:21			
	<b>9:55 (1)</b> 1245:18			
	<b>90 (1)</b>			